LEGISLATIVE COUNCIL.

Wednesday, October 23, 1957.

The PRESIDENT (Hon. Sir Walter Duncan) took the Chair at 2.15 p.m. and read prayers.

QUESTIONS.

NEW RIVER CANNERY.

The Hon. K. E. J. BARDOLPH—Has the Attorney-General the information I asked for yesterday with regard to a new cannery on the River Murray?

The Hon. C. D. ROWE—The Government received a request from the South Australian Canning Fruitgrowers' Association requesting assistance in the establishment of a co-operative cannery in the irrigated fruit producing areas of the River Murray. In order that the matter might be fully investigated Cabinet on March 18, 1957, appointed a committee for this purpose, the members of which were Messrs. W. P. Bishop (Auditor-General), Chairman, A. G. Strickland (Department of Agriculture), A. C. Gordon (Lands Department), G. F. Seaman (Treasury), and H. S. Dean (Department of Industry). The Loans to Producers Act, 1927-1951, provides authority for the Government to give financial assistance to this project.

TELOWIE GORGE HOSTEL.

The Hon. W. W. ROBINSON—Has the Attorney-General a reply to the question I asked yesterday with regard to the Telowie Gorge Hostel?

The Hon. C. D. ROWE—The National Fitness Council approached the department regarding the erection of a youth hostel at Telowie Gorge near Port Germein by the Apex Club of Port Pirie or the National Fitness Council. The area is held under annual licence for the purposes of public recreation by the District Council of Port Germein. The National Fitness Council was advised that as the area was controlled by the council, the temporary use of the area either by the Apex Club or the council was a matter for arrangement with the District Council of Port Germein. It was therefore felt that the matters relating to the establishment of this hostel must be arranged between the district council and the Apex Club or other body concerned. I have no doubt the district council will look after the matter of the requirements which the honourable member has particularly referred to.

BURNSIDE COUNCIL BY-LAW: ZONING.

Adjourned debate on the motion of the Hon. E. Anthoney—

That the amendment to by-law No. 1 of the corporation of the city of Burnside in respect of zoning made on June 4, 1957, and laid on the table of this Council on August 13, 1957, be disallowed.

(Continued from October 16, Page 1087.)

The Hon. N. L. JUDE (Minister of Local Government)—As I have been given to understand that this matter has been satisfactorily resolved between the parties I have nothing further to say and leave it to the mover.

The Hon. E. ANTHONEY (Central No. 2)—I confirm the statement made by the Minister. A solution has been amicably arrived at and another by-law is being prepared. I therefore move that the motion be read and discharged.

Motion read and discharged.

REGISTRATION OF FACTORIES REGULATIONS.

Adjourned debate on the motion of the Hon. L. H. Densley—

That the Regulations under the Fees Regulation Act, 1927, varying the fees prescribed in the Industrial Code, 1920-1955, for the registration or renewal of registration of every factory, made on August 15, 1957, and laid on the table of this Council on August 20, 1957, be disallowed.

(Continued from October 16. Page 1089.)

The Hon. F. J. CONDON (Leader of the Opposition)—At first glance at the by-law it appears that the increased charges will be severe and harsh, but after hearing the Minister that belief is somewhat lessened. As industry has grown so has the work of the department which covers many fields. The total receipts of the Factories and Steam Boilers Department for 1957 was £35,837, which was a falling off of £1,000 on the previous year and represented a deficit of £1,841. We cannot afford the losses, some of which are heavy, being made on the operations of many departments. There has been no increase in fees for 30 years, and even with the proposed increases only a small profit will result. In these matters the Government has failed in its responsibilities as the fees should have been increased gradually.

The Hon. C. R. Cudmore—Do the factories pay for all the department's expenses?

The Hon. F. J. CONDON—No. Its officers are engaged in many activities, and among other things they deal with inflammable oils, shops, and steam boilers. Now that an economic pinch is being felt more than perhaps in the last 10

or 12 years the Government has seen fit to make very high increases, which should have been made gradually. No doubt those concerned will be able to meet the increased charges, as they have made some huge profits. Whereas I was inclined to look upon the disallowance with a certain amount of fear, I consider that in order that the department should be able to make ends meet it is necessary that the increased charges should apply. Therefore, I oppose the motion.

The Hon. L. H. DENSLEY (Southern)—I feel it is the duty of members to pay due regard to any matters which they fear may create an injustice or alter a principle of any particular ruling or by-law applying to industry. I rather regret having to reply to this debate and that the Attorney-General will have no further opportunity to reply to anything I might say. I disagree with some of his statements. In common with all other honourable members I hold him in the very highest regard and feel that the job he has done, particularly in recent months when he has been faced with additional duties, is worthy of our highest esteem. He has done an extremely good job for South Australia, and consequently I do not want to criticize him. I was, however, rather concerned when he said that some of my statements were not correct. It has been my ambition to stick as near as possible to the truth when I speak, and if I have made a mistake it was a genuine and not a designed mistake. The Minister criticized what I said, and said that our fees would still be the lowest in the Commonwealth, but equal to those in Victoria. He mentioned that I had said that the fees were higher in South Australia than in Victoria and New South Wales. That is where I join issue with him. My statement was not that they were higher in South Australia, but will be substantially the same as those in New South Wales and Victoria, and whether we can justify lifting the fees from what they were before is of very grave doubt. It was not my own expression of the variation of fees within the Commonwealth. I had before me a report by Mr. McColl (Chief Inspector of Factories and Steam Boilers and Chief Inspector of Inflammable Oils) and I hold him to be an extremely good officer. This is what he put before the Joint Committee on Subordinate Legislation:—

The proposed scale of fees is substantially the same as the scales applying in New South Wales and Victoria.

So I had exactly quoted what he had said. I knew there was a slight variation in Victoria and that is why I was satisfied to use the word "substantially." The position was that for the first 100 employees in Victoria the fees were the same as in South Australia and in New South Wales, but when it came to additional employees the position in Victoria was totally different from those States. On two occasions the Attorney-General said that South Australia had the lowest registration fees in the Commonwealth. On one occasion he said equally lowest with Victoria and on the other equally lowest with New South Wales. I went to the Parliamentary Library to ascertain the fees paid in the various States, and I quote these figures to show that the Minister was on an entirely inaccurate basis. In New South Wales for 100 persons the fee is £20 with £10 for each additional 50 persons employed. South Australia is similar. In Western Australia the fee for 30 persons is £3 10s., plus £1 for each additional 10, with a maximum of £15; in Tasmania for 60 persons or over the maximum fee is £3 3s. (with lower rates for under 60); in Queensland for 60 persons or over the maximum fee is £3 3s. (with correspondingly lower fees for under 60 persons); and in Victoria which has the highest fees in the Commonwealth, for the first 100 persons the fee is £20 with £20 for each additional 50 employees. In the last day or two word has been received from Western Australia that their fees have been raised from a maximum of £15 to a maximum of £18 10s. Obviously our Library has not yet been informed of that increase.

The Hon. C. D. Rowe—In Western Australia there would be very few factories with over 100 employees.

The Hon. L. H. DENSLEY—I am not concerned with that at the moment, but with the Attorney-General's statement that the fees here are the lowest in the Commonwealth, whereas they are now equal to New South Wales with Victoria the highest. The Attorney-General said that certain work was done for industry by the department without charge, but I point out that factory owners are called upon to pay fees for registration of shops, inspection of boilers, inspection of scaffolding, lift installations, and other things. Under those headings the charges that the Attorney-General feels are just are really a burden, although I am not making a complaint about them now; what I am complaining about is that a new principle was involved in raising fees from factories with over 100 employees to such an extent that one firm has to pay an increase of 11,000 per cent, several others have had a percentage increase of several thousand,

and others have had smaller increases. I do not think this is desirable because we are encouraging factories to come here, so we do not want to charge the highest registration fees of any State of the Commonwealth, which we are very nearly doing today.

The Attorney-General questioned my statement with regard to the surplus revenue that would be obtained through these new charges. The Chief Inspector gave me a statement that the estimated amount that would be received by the Government from these increased fees was £26,046. He also said that the estimated surplus was £9,730, so I deviated a little from fact when I said it would be about £10,000; however, I gave round figures only.

The Hon. C. D. Rowe—But those figures did not take into account bringing the staff up to the full establishment or rental of the premises.

The Hon. L. H. DENSLEY—I appreciate those things, but the Attorney-General mentioned that the revenue would be only a few hundred pounds more than expenditure. Later, he said that in addition the department was supplied with office equipment, postal facilities and telephone, which would cost about £5,000 a year, and then said there would not be much left of the few hundred pounds he mentioned as a surplus. As far as I am concerned, if you take £5,000 of anyone's money from a few hundred, there is not very much over. The Attorney-General also said that the Government would like to appoint additional inspectors, and that the fees would not be altered for many years, so if a surplus was built up it would disappear as time went on. I have answered his statements because they were a challenge to my statements, a challenge to the facts, and something that I felt I should reply to. Nearly every statement he made was not in accordance with fact.

When I heard Mr. Condon say that he felt an injustice had been done, but had been satisfied there had been no injustice after listening to the Attorney-General, I felt I should reply, because it is no good putting up a case and knocking it down. These increased fees savour very much of a pay-roll tax—the more people employed, the greater the amount paid for registration, in the same way as pay-roll tax increases with increases in wages. This fee is for registration, and the other ancillary charges relating to lifts, protection of workmen from machinery and so on, should be additional charges, so I think the Council would be very wise to disallow this regulation and get the Government to look at the matter again to decide whether it is equitable or undesirable. I think it is undesirable, and I ask members to vote accordingly.

The Committee divided on the motion:—

Ayes (6).—The Hons. C. R. Cudmore, L. H. Densley (teller), A. J. Melrose, Sir Frank Perry, W. W. Robinson, and Sir Arthur Rymill.

Noes (12).—The Hons. E. Anthoney, K. E. J. Bardolph, S. C. Bevan, J. L. S. Bice, F. J. Condon, J. L. Cowan, E. H. Edmonds, N. L. Jude, C. D. Rowe (teller), A. J. Shard, C. R. Story, and R. R. Wilson.

Majority of 6 for the Noes.

Motion thus negatived.

MARRIAGE ACT AMENDMENT BILL.

Returned from the House of Assembly without amendment.

LOCAL GOVERNMENT ACT AMENDMENT BILL.

In Committee.

(Continued from October 22. Page 1184.)

Clause 11 "Differential general rate."

The Hon. N. L. JUDE (Minister of Local Government)—I move to insert the following paragraph—

(al) by inserting after the word "remainder" in the fourth line of subsection (2) thereof the words "of the area."

The amendment is purely a drafting one and will not affect the clause in principle as it is being debated.

The Hon. S. C. BEVAN—I oppose the clause because I feel that councils should have some discretionary power in relation to the rating of a ward or part of a ward. I remember that in 1952 amendments to the Act were before this Council, and I have a vivid recollection that the Government introduced an amendment to provide for the very thing it now desires to delete. I was then opposed to the amendment which provided for differential rating within wards. Some stressed the fact that we had to do something to assist sporting bodies, but I took exception to concessions being given to clubs such as those at Kooyonga, Birkalla and Morphettville, because the amendment would rebate 50 per cent of the rates to these bodies. That legislation passed this Council but the House of Assembly struck out the provisions giving rebates to those sporting bodies. I was a member of the conference which took place at 2 a.m. A compromise was reached, and if I remember rightly the final agreement between the two Houses was on

a basis of 75 per cent-25 per cent rebate. I opposed it because I did not see why wealthy sporting bodies should be given privileges over and above those enjoyed by the ordinary ratepayers.

The Hon. E. Anthoney—The rates would have been prohibitive to those bodies and they could not have carried on.

The Hon. S. C. BEVAN—I do not agree. They carried on until 1952 when the legislation was amended.

The Hon. Sir Frank Perry—There was a different system of valuation.

The Hon. S. C. BEVAN—The principle at that stage was to give power to councils to use it if they desired. I agree that a special rate should be struck for people on agricultural land in the Marion and West Torrens districts.

The Hon. N. L. Jude—Rural urban lands are still dealt with separately in the Act.

The Hon. S. C. BEVAN—It still comes under the Local Government Act. I have in mind that a body of public-spirited people may desire to make a rebate because of some circumstances within a council or within a given area. If this is included in the Act councils will be denied the opportunity to provide concession rates for old age pensioners.

The Hon. N. L. Jude—Is that done now?

The Hon. S. C. BEVAN—Not as a remission, but they can rate the property of an old age pensioner lower than that of the adjoining property. This provision will stop anything like that from being done, thus taking away the discretionary power of the council. That is wrong. The amendment is wrong and will create too much hardship for those concerned.

The Hon. C. R. CUDMORE—I agree with Sir Arthur Rymill that all the trouble is caused by land values assessment. I oppose the clause, and there is so much doubt and controversy that we would be better without it. An amendment on the file by the Minister does not make sense to me. Why does he propose to insert the words "of the area" when they are already in? He will have them appearing twice, one after the other.

The Hon. C. D. ROWE (Attorney-General)—I suggest that in view of the discussion the amendment be temporarily withdrawn so that we can see the effect of a decision on clause 11.

Amendment temporarily withdrawn.

The Hon. F. J. CONDON—I ask the Minister to report progress so that members can have an opportunity to consider the circular received from the Port Adelaide City Council. I hope that it will delete the clause, otherwise we shall be doing an injustice to certain councils. I take this stand because it means so much to the councils, which play an important part in local government.

The Hon. N. L. JUDE (Minister of Local Government)—As I indicated yesterday, the provision will apply to a whole ward and not portion of a ward. I said it would do away with the apparent uncertainty in legal quarters in relation to the words "portion of the area." The debate brought forward further anomalies relating to the use of these powers in the present Act. The Government does not intend to be a party in respect of extending powers of differential rating to persons, but is quite willing to listen to suggestions regarding the differential rating of areas.

I checked up on Mr. Condon's remarks, and if members study the report from the Port Adelaide Council they will immediately realize that if there was one argument for clarifying the wording—whether it applied to half a ward or a whole ward—it is the very argument set forth from beginning to end in the council's report. I ask members to have a further look at it. It provides a far stronger argument than the Government has put forward for the rating of a ward as a whole. Be that at is may, I can only reiterate what I said yesterday on the Government's attitude with regard to the powers of local government—that it believes in extending these powers as far as possible unless they cut diametrically across the general attitude of the Government of the day. Therefore, in view of the very considerable dissatisfaction by councils with regard to this matter—by more councils than I was aware were using these powers—the Government is prepared to withdraw the clause. This means that the *status quo* will remain—that is, it will be a portion of a ward.

It is interesting to note that the corporation that brought this matter fully into discussion in the last 18 months or so has not seen fit to use the powers contained in the Act. If the *status quo* remains, it will inevitably mean that sooner or later a test case will have to go to the court to decide whether the Crown is right or whether someone else is right. The opinion of the Crown is the one that appears in the Act, and it is the one that was sanctioned by Parliament. I trust that the withdrawal of the clause will meet with the approval of Council.

Clause negatived.

The schedule.

The Hon. N. L. JUDE—I move—

In the line opposite "Section 528" to strike out "(2)" and insert "(1a)".

This is merely a drafting amendment.

Amendment carried; schedule as amended passed.

Title passed.

Clause 12—"Expenditure of revenue"—reconsidered.

The Hon. Sir ARTHUR RYMILL—Yesterday I passed over this clause because I thought that the maximum expenditure allowed was £200, which is a comparatively small amount for a council to expend. I thus felt I was in order in agreeing to the clause, but on reflection I feel that it is establishing a new principle, and in those circumstances I oppose it. The principle established by this clause is a new one to local government whereby in effect councils can spend money outside their own areas, which is a bad thing.

The Hon. S. C. Bevan—It would deal with donations, wouldn't it?

The Hon. Sir ARTHUR RYMILL—Yes, and other matters. It was suggested to the Adelaide City Council that a federation of capital city councils be set up in Australia whereby information could be exchanged. This would have carried a fair amount of expenditure with it which I thought would be increasing over the years, but fortunately the Adelaide City Council had no power to spend money on that sort of thing, otherwise it might well have done so and thus would have spent money unnecessarily on things outside its area.

There has always been some sort of pressure on councils to spend money outside their areas, but I do not think that is the role of local government. Councils now have power to make donations to charities operating within their areas, but not to those outside. Often pressure is used by outside charities, but it would be *ultra vires* to make donations to them. I feel that these donations should be left to those in the areas or others who would otherwise subscribe to them. This clause does not cover that only, but covers any moneys that councils would like to spend, whether inside or outside their areas. I think the clause should have been aimed at some more specific matter, but in effect it is quite unlimited in its operation, so I propose to vote against it.

The Hon. E. ANTHONEY—Many times matters such as envisaged by Sir Arthur Rymill come before councils, and it must be borne in mind that they involve ratepayers' money. The bodies to which they can subscribe are specifically laid down in the Act. I think this is a very dangerous widening of that power. While £200 may seem a very trivial amount it is an amount which could grow very substantially. Councils would like to subscribe to many deserving things, and I am afraid the temptation would be very great in many cases. If we give councils this power there is no doubt that it will be used, and therefore I think that it would be unwise for us to agree to it. I oppose the clause.

The Hon. F. J. CONDON—In my second reading speech I said that the amount mentioned was not high enough and I suggest that it be increased from £200 to £500. I have confidence that members of councils will do the right thing, and in my opinion they would not do anything detrimental to the ratepayers. I understand that certain bodies desire assistance from councils. If a request is not fair and reasonable a council would not agree to vote a sum of money for it.

The Hon. Sir ARTHUR RYMILL—Mr. Condon's remarks illustrate the danger of this clause. As I said yesterday, my line of thinking was that £200 was such a comparatively small sum that it did not matter, but what came into my mind then was that once we have established the principle that councils can expend moneys outside their area there will no doubt be pressure for the amount to be increased. Mr. Condon has emphasized that point because he wants it increased, and that is why I asked that the clause be recommitted. Although it is a small amount, if we agree to the clause we would be establishing a principle, that this Parliament agrees that municipalities and district councils should be allowed to spend money outside their areas, and once we have agreed to that principle it will be hard to resist an application by councils for an increase in the amount if they can show that they wish to spend more money.

Mr. Condon raised the question about whether councillors could be trusted, and I think he said in effect that it was a slight on members of councils that we do not trust them with powers. I do not think that is the point. Many councils find that because they have no power to spend money outside their areas they are protected from pressure to donate to worthy charities which are not within their area. If we sanction this principle the limit will gradually grow until the amount to which ratepayers could be committed could be substantial. It would cut right across the principle of local government which, as I see it, is that councils are divided into small

areas so that those small areas can be autonomous. In my opinion, no council should have powers outside its own area.

The Hon. C. R. CUDMORE—I see nothing in this which deals with areas. This very same question was raised in 1952, when we were asked to give authority for money to be spent by district councils for certain unspecified matters. We then refused to do so, and insisted that the matters must be specified so that ratepayers would know how the money was being spent. We gave power to councils to subscribe for the purposes of any organization having as an object the furtherance of local government or the development of any part of the State in which the area of the council was situated, and we limited it to £50. Some of us thought it should have been more specifically stated how the money was to be spent. The amendment before us is to insert new paragraph (kl) in section 287 which would read:—

In making any payment for the purpose approved by the council but other than a purpose specifically provided for in this Act.

It is clear that this has nothing to do with areas. It is merely a right to contribute to anything which is not specifically provided in the Act, provided the total amount does not exceed £200 or one per centum of the rate revenue for the previous financial year, whichever is the lesser. I agree with Sir Arthur Rymill that the principle is wrong, and I argued against it in 1952.

If people are to have authority to levy and collect rates the purpose for which they are using those rates should be specified. We have given councils enough reasons to spend their money without giving them an *ad lib* reason. The clause gives councils power to spend up to £200, but before the clause is even passed and almost before the ink is dry on it someone wishes to make it £500. That shows how dangerous it is to give this sort of authority to councils to spend money collected from the ratepayers. I hope the Committee will not pass the clause.

The Hon. C. R. STORY—I support the clause. This matter was recently thrashed out by the Upper Murray Local Government Association, which was of the opinion that this provision was most desirable. I cannot understand the objections raised by Sir Arthur Rymill and Mr. Cudmore. The amount provided can only be altered by Parliament, and if a council played loose with the ratepayers' money in giving the full amount of £200 to something that the people did not think was right and proper the council would very soon be changed. I think we are quite wrong in tying councils down to some specific thing on which they have to spend money. Mr. Cudmore pointed out that the Local Government Act is a very voluminous document, but if we are going to get down to specific things on which councils can spend money it will become even more voluminous.

The Hon. J. L. COWAN—When speaking on the second reading I supported this clause and I know of no reason why I should not continue to support it. I have had considerable experience in local government affairs, and I know of many occasions on which a council has felt it should support some local project or donate a certain sum of money to some cause other than those laid down in the Act. I think we can well have confidence that councils will not abuse this privilege. It is not necessary for this money to be spent outside the area, as Sir Arthur Rymill has stated, and I think that very little of it would be spent outside the area.

The Hon. Sir Arthur Rymill—I said that it empowered a council to spend money outside its area.

The Hon. J. L. COWAN—I do not think the power would be used to that extent nor would it be used foolishly. There was a comment in the Auditor-General's report that certain councils' accounts had been audited and found slightly at fault. This was probably brought about because councils were not allowed to spend money on certain small matters in connection with the running of councils; they had perhaps spent this money wrongly, and therefore the accounts were found at fault when inspected by an officer of the Audit Department. I believe that the provision to allow the spending of this comparatively small sum will overcome those difficulties. I intend to support the clause.

The Hon. F. J. CONDON—A principle has already been established by this Council. Often I have objected to increased penalties and have been told that money values today are lower than they were a few years ago. If we agree to increased penalties for offences, then why should we not agree to the amount provided in this clause?

The Hon. A. J. MELROSE—I would not like to see the clause deleted, because one has to realize that rates are raised from people in all walks of life, and we should not liberalize the powers of a council to spend its money on what could be the fancy idea of one or two councillors. For instance, a council may

include supporters of greyhound racing, and they should not have the power to spend the rates raised from people bitterly opposed to that pastime or their pet interest. The Act provides that a council has power to subscribe to things which are undeniably for the benefit of the residents of the district as well as to several things outside their area which, in their opinion, will provide a benefit for the ratepayers.

The Council divided on the clause—

Ayes (12).—The Hons. K. E. J. Bardolph, S. C. Bevan, J. L. S. Bice, F. J. Condon, J. L. Cowan, E. H. Edmonds, N. L. Jude (teller), W. W. Robinson, C. D. Rowe, A. J. Shard, C. R. Story, and R. R. Wilson.

Noes (6).—The Hons. E. Anthoney, C. R. Cudmore (teller), L. H. Densley, A. J. Melrose, Sir Frank Perry, and Sir Arthur Rymill.

Majority of 6 for the Ayes.

Clause thus passed.

Title passed. Bill reported with amendments and Committee's report adopted. Bill read a third time and passed.

LANDLORD AND TENANT (CONTROL OF RENTS) ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from October 22. Page 1185.)

The Hon. E. ANTHONEY (Central No. 2)—This legislation has become a hardy annual since the war. From year to year a little more freedom has crept into it, but it is opposed to a principle which some of us hold dearly—that we should get back to free contracts between the landlord and his tenant as to rents. Some of us hoped that before now it would have been removed from the Statute Book. I believe that if we revert to freedom the result will be a far better deal for both sides.

The Hon. K. E. J. Bardolph—You mean freedom to exploit?

The Hon. E. ANTHONEY—I would not say that all landlords are exploiters. There are good as well as bad landlords. You find that in every walk of life. We only have to cast our minds back to the period prior to the establishment of the Housing Trust, which has done a wonderful job. Then tens of thousands of homes were built by private people, but it is no use people saying that this Bill will help in the provision of housing. The trust is the only agency today able to build houses because it has almost a monopoly of labour and has had it for a long time, and also a monopoly of materials. An outside man has little hope of getting labour or finance. The trust was established to keep rents reasonably low—a very desirable object—but this legislation is doing much harm to many hundreds of decent people, who the Government encouraged to be thrifty and make small investments, as many have done in houses which they let.

Many of these worthy people were formerly in the Public Service and invested in houses, but today are finding it most difficult to continue because of the small income their properties are returning. We have increased rents a little from year to year, but they have been far too low to allow the landlord to keep his house in proper repair. This has happened all over the world. I saw it in Europe where they had control. It has been abolished in England, but before then houses got into great disrepair because the landlord could not get enough rent to maintain them, and in France the position was considerably worse. In the suburbs of Paris the houses are in a dilapidated condition because the controls were so rigid and controlled rents so low that the owners could not possibly spare any money even to buy a pot of paint. That is the kind of thing which controls are bringing here.

The Hon. K. E. J. Bardolph—You originally supported this legislation.

The Hon. E. ANTHONEY—I have always been opposed to controls and still am. I believe in free enterprise, which is the safest and soundest means of a community's progress. We have had these controls for years. I admit that the Government, in accordance with its promise, is trying to remove them, and the Bill contains one or two useful amendments. This Bill amends the principal Act in certain ways that will benefit certain people. However, we would be far better off without these controls, because they are bringing hardship to a number of people, whereas the lot of those who rent houses has been improved for several years. Although rents have been raised, they have not been increased to the same extent as wages. It used to be an axiom that one day's pay should be the amount of a man's weekly rent, but that is not the position now.

The Hon. F. J. Condon—Many people pay £3 10s. a week for rent, which is more than a day's pay for a man on the basic wage.

The Hon. E. ANTHONEY—I do not think many people are on the basic wage now. In the last nine or 10 years wages have increased by

200 per cent, but rents have not increased to anywhere near that extent. Landlords surely should be entitled to a better return on their capital outlay. This Bill provides for a 6⅔ per cent increase in rents, but I do not think it is sufficient. Although I have always opposed this type of legislation, I support the second reading in the hope that desirable amendments will be introduced.

The Hon. L. H. DENSLEY secured the adjournment of the debate.

LAND SETTLEMENT ACT AMENDMENT BILL.

(Continued from October 22. Page 1189.)

Bill read a second time and taken through Committee without amendment; Committee's report adopted.

METROPOLITAN TRANSPORT ADVISORY COUNCIL ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from October 22. Page 1178.)

The Hon. F. J. CONDON (Leader of the Opposition)—The Metropolitan Transport Advisory Council Act was passed in 1954, and a committee was set up in the following year. When that measure was before the House, the Opposition moved two amendments that were not received very favourably, and as a result were defeated. Those amendments provided that the Railway Employees Union and the Tramways Employees Union should each have a representative on the council, it being argued that their experience would assist the other members of the council. I think we were right in our action. Since the committee, consisting of Mr. A. J. Hannan, chairman, Mr. Keynes, the manager of the Tramways Trust and Mr. Fargher, Commissioner of Railways, was appointed, it has presented one report and this has met with much adverse comment. However, I do not desire to criticize the committee, because I intend to support this Bill providing for an extension of its life for two years. When the 1954 Bill was before the House, Mr. Cudmore moved an amendment to the effect that the committee's life should expire in 1957. That was carried, and the Government now considers it necessary to extend the life of the committee for another two years. However, I do not know whether that is to enable it to consider closing any more railways in the metropolitan area or not.

I shall now quote the opinions of some councils involved to show how they differ. The Henley and Grange Corporation wanted the railway moved from Military Road. The corporation was divided on whether a railway should be provided on the new route approximately 30 chains east of Military Road. The Woodville Corporation favoured the duplication of the railway on the present route, and stated that the discontinuance of the Woodville to Henley Beach railway line would be to the detriment of residents of Seaton and adjoining areas. If duplication was impracticable, the corporation strongly favoured additional loops so that the service could be improved. The Thebarton Corporation had no suggestions to offer regarding alternatives or alterations to the existing system of rail transport between Woodville and Henley Beach. The Hindmarsh Corporation considered that the existing rail facilities should remain to provide convenient transport for its residents to the beaches. The Henley Beach traders wanted the rail service retained in its present position until such time as it could be moved to the proposed new route. I presented a petition, signed by 700 residents of the district, asking that there should be no alteration to the transport in that district. The Advisory Council made the following recommendations:—

(1) That the railway service between Grange and Henley Beach stations be discontinued and the line of railway between these two stations be closed.

(2) That the railway tracks and other accommodation works between the southern end of the Grange station platform and the terminus at Henley Beach be subsequently removed.

(3) That the city to Findon bus service be extended.

The Public Works Committee recommended the removal of the existing single line of railway between the 7½-mile post *via* Military Road to Henley Beach station, and the construction of a new line of railway from the 7½-mile post to the Henley Beach Road.

I do not know whether the Government intends to introduce a Bill as suggested by this advisory council, but before a line can be closed the matter must be submitted to the Transport Control Board. Following that, it must be submitted to the Public Works Committee for that committee to grant approval for the closing of the line. Although there has been a very exhaustive inquiry there seems to be so much difference of opinion amongst the people concerned that the Government might well have another look at this matter. I know it is suggested that bus services will be provided, but it is a very difficult thing to take away a railway line from the metropolitan area. Members will probably recall that there

was a great agitation for years after the closing of the North Terrace to Glenelg railway. Even though a very good tram service was provided, there was still strong agitation for the restoration of the train line.

Quite recently recommendations have been submitted and acted upon for the closing of the railway lines from Millicent to Beachport and from Wandilo to Glencoe, both in the South-East. Some people say that railways are a thing of the past, but with a growing metropolitan area, particularly so close to our beautiful beaches, a train service is preferable to a bus service. I support the Bill.

The Hon. W. W. ROBINSON secured the adjournment of the debate.

POLICE OFFENCES ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from October 17. Page 1155.)

The Hon. Sir ARTHUR RYMILL (Central No. 2)—The substance of this Bill is contained in clauses 3, 4 and 5. Two of the clauses are really in the nature of technical amendments. Clause 3 provides that section 17 of the principal Act is extended by including the words "unfenced areas of land." Section 17 is directed at an offence of being on premises for an unlawful purpose or without lawful excuse. The section defines the type of premises. It lists a number of types of premises which are not normally fenced, and concludes with a drag-net section saying "any enclosed or fenced area of land." At the time the Act was drawn it was unusual for a dwellinghouse not to have a fence around it, but with the passage of time wandering animals have diminished within the metropolitan area and dogs are not what they used to be, and landholders have found that in many instances they can dispense with fences. This is therefore only a modernization of the Act.

Clause 4 also brings the Act into line with the forward movement. The Act was made to coincide with the previous organization of the police force and provided that for certain traffic matters the Commissioner should be able to delegate his powers to inspectors. It is now desired to bring that into line with the reorganization by including superintendents and other officers above the rank of inspector, which of course is a very proper amendment.

The main amendment is clause 5, which provides, as the Attorney-General explained, for bringing people apprehended for offences against two sections of the Road Traffic Act within 15 miles of the G.P.O. to the City Watchhouse instead of taking them to suburban police stations. This clause, I think, is permissive. People can still be taken to suburban stations, but it is considered that in certain circumstances it may be desirable to bring them to Adelaide. The Attorney-General gave us the reason for this amendment that it might be necessary to take blood tests of these people and that the apparatus was more readily available at a central point.

I think the Minister's speech was a little ambiguous, because the press assumed from it that compulsory blood tests were to be imposed on motorists suspected of drunken driving. I also gained that impression, although on re-reading the speech I find that it was only ambiguous. It was an impression that could be gained and I think could reasonably be gained, in other words, I do not think we were altogether at fault in getting the wrong impression of what was intended. It exercised my mind to some extent when I concluded that we were going to have to decide that very contentious and important question as to the attitude we should take, but it now appears that the Act has not been altered in that respect and it is unnecessary for us to go into that very difficult question.

Clause 5 amends section 78 but in fact it is directed at section 81 which reads:—

When a person is in lawful custody upon a charge of committing any offence, any member of the police force may search his person and take from him anything found upon his person, and may use such force as is reasonably necessary for those purposes.

Subsection 2 provides that where there are reasonable grounds for believing that an examination of the person in custody will afford evidence as to the commission of the offence, any legally qualified medical practitioner may make such an examination of the person so in custody as is reasonable in order to ascertain the facts which may afford such evidence . . . and here are the vital words:—

And may use such force as is reasonably necessary for that purpose.

It has been said in certain quarters that that section empowers the police to enforce compulsory blood tests. Other quarters believe that it does not and that whilst voluntary blood tests can be taken at the moment they cannot be taken against the will of the person concerned. It is very difficult to interpret these words "force as is reasonably necessary," and I would think that whilst there is some ambiguity about the matter the Govern-

ment would not attempt to have compulsory tests and take the risk of an action for assault. I should think that if the Government wanted to have compulsory tests taken, in view of the uncertainty of the interpretation of this section it would probably amend the Act, and thus Parliament would have the opportunity to say what it thought about the matter.

I think that as this clause was not aimed specifically at that matter it is quite safe for us to pass it in its present form. Voluntary blood tests can be taken at the moment, which means that police can ask a man whether he is prepared to have the blood test taken. I would not like to see a practice grow whereby if a man refuses to have a blood test taken that is offered in evidence against him in court, because I think that would be a purely prejudicial matter. The man may have refused a blood test on religious grounds or on many other grounds, and I think it would be unfair to an accused person to try and supplement the evidence against him by saying that he would not have a blood test taken and therefore that is another nail in his coffin, as it were, to show his guilt. It could be said in reply that the man had a perfectly good explanation, but I do not think he should be put in that position. I have practised in the courts for many years, and I have always objected to that type of evidence being tendered by a prosecution, because I do not think it is fair.

I hope the Government will not let the practice creep in, before Parliament has given consideration to the question of compulsory tests, if it has to, whereby voluntary tests are required as a matter of course and evidence is offered that they were not accepted, if in fact they were not accepted. I support the Bill.

Bill read a second time.

In Committee.

Clauses 1 to 4 passed.

Clause 5—"Arrest without warrant."

The Hon. C. D. ROWE (Attorney-General)—Perhaps it would be wise if I were to make a firm statement in reply to the point raised by Sir Arthur Rymill. It is not the Government's intention, by this Bill, to alter either the law or the practice regarding blood tests for drivers suspected of driving under the influence of liquor.

Clause passed.

Title passed. Bill reported without amendment and Committee's report adopted. Read a third time and passed.

VERMIN ACT AMENDMENT BILL.

(Continued from October 17. Page 1155.)

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Clause 3—"Duty to destroy burrows."

The Hon. A. J. MELROSE—I move—

In subparagraph (1*b*) to strike out the proviso.

In the second reading debate I said that I spoke from a lifetime's experience and that many people respected the law more in the breach than in the observance. If the proviso is included, we will nullify any good the Bill can achieve. Mr. Cowan referred to the use of tractors and rippers as being the modern answer to rabbit extermination. Actually, that is so, but it is only one way of tackling the question. In effect, the proviso will tell the people that if they can find a reasonable excuse, no notice will be taken of their offence.

The Hon. C. D. ROWE (Attorney-General)—I think it will be agreed that no-one in this Council has had more experience in this matter than Mr. Melrose, or paid more attention to eradication of vermin on his property, but there may be circumstances where a person may have a defence for not destroying rabbits on his property. For instance, the burrows may be on the side of a cliff, on the edge of a river or in other inaccessible places. Therefore, some provision must be included to deal with such exceptional circumstances. For those reasons I suggest that the clause be agreed to.

The Hon. L. H. DENSLEY—During the course of years councils have made it compulsory for rabbit burrows to be destroyed, and their inspectors have insisted on their destruction. If burrows are not destroyed, we shall not go far towards the eradication of rabbits. Although there may be difficulties in destroying some burrows, it is not desirable that this proviso should be deleted. The ripper is the new method of attack, but there is no reason why owners should not use the shovel and pick or any other method of attack.

The Hon. A. J. MELROSE—I said in my second reading speech that where the rabbit beats the man he beats him because he has more brains. In the country where I was reared the eradication of rabbits was as difficult as one could imagine. There were some rocky hills and the rabbits lived in the clefts of rocks and underneath them, but they were completely eradicated by simply breaking the

rocks with sledgehammers and packing stones into the burrows. On parts of the property there was dense mallee scrub and creeks 20ft. to 30ft. deep, but the warrens were either dug out or fumigated, or the pest was destroyed in some other way.

People do not destroy rabbits either because of lack of system or they are lazy, or both. It is difficult to get some people to realize the economic damage done by even a few rabbits, which not only eat a certain amount of feed, but foul much of it. People should not be provided with further excuses for not eradicating rabbits. Like Mr. Densley, I was under the impression that it was compulsory for rabbit warrens to be destroyed. If that is so, all the proviso does is to provide excuses for people to avoid their responsibilities. I hope the Committee will support the amendment.

The Hon. Sir ARTHUR RYMILL—Mr. Melrose's arguments appear very logical when one looks at the verbiage of the clause, because it refers to simultaneous vermin destruction. If a man has difficult country, the present proviso would let him out, because he could say to his neighbours, "It is all right for you to simultaneously destroy your vermin. My country is too difficult and I cannot be bothered. You can destroy your vermin simultaneously, and I will let my rabbits go on your property." I have yet to learn of any method whereby rabbits can be completely eradicated without the destruction of their burrows. I have a few rabbits on my little property and even on its small dimensions I am having some difficulty to cope with them, largely because of the burrows. In these matters one must regard the administration as having some discretion, and if there is a substantial reason why a landowner has not complied with simultaneous destruction, no doubt if a prosecution is launched the court would convict without penalty.

The Hon. S. C. Bevan—Wouldn't the onus of proof be on the landowner?

The Hon. Sir ARTHUR RYMILL—Yes, if the prosecution shows that he did not destroy the burrows or fill them in, the onus would undoubtedly fall on him to excuse himself, because in the words of the Bill, "owing to the physical features of the land or road, as the case may be, it is not practicable to comply with the requirements of this section."

The Hon. E. H. Edmonds—Only so far as destroying burrows is concerned.

The Hon. Sir ARTHUR RYMILL—That is so, but if the burrows are not destroyed, how can the rabbits be destroyed? I think the amendment to a large extent lines up with the commonsense attitude.

The Hon. E. H. EDMONDS—There seems to be some misconception by some people that the destruction of a burrow is the only means of destroying vermin effectively, or keeping them in check, but other methods are in use for dealing with burrows in inaccessible places. The responsibility of dealing with vermin was the same before rippers were introduced as it is now. Poisoning and trapping were the methods that had to be employed to combat the rabbit nuisance on cliffs or creek banks. Although I admit that the ripping of burrows is the most effective method, it is not by any means the only method. It seems to me that if the proviso is deleted, there cannot be any objection to the clause, and I commend this to Mr. Melrose for his attention.

The Hon. R. R. WILSON—Under the clause landowners must prove that the physical features are such that they cannot destroy burrows. I agree that people can help themselves a great deal, but there are places where the owner could prove that he is not able to destroy burrows. Burrow destruction is not the only method, however; rabbits can be destroyed by the use of poisons and by myxomatosis. As I said during the second reading debate, there are millions of rabbits in the Murray mallee but very few burrows. As the landowner will have to prove that he cannot destroy burrows, I think the clause is acceptable.

The Hon. E. H. EDMONDS—When I commented on Mr. Melrose's amendment I thought it embraced more of the clause, and what I suggested was practically what Mr. Melrose proposed. I shall support the amendment.

The Hon. C. D. ROWE (Attorney-General)—I rise to make two points. Firstly, the onus of proof is on the defendant to prove that it is not possible, because of physical features, to do the things provided in the Bill. I believe that is a protection to ensure that the first part of the section is complied with. Secondly, this clause will make the Act more effective. Thirdly, even on Mr. Melrose's own admission, there are areas—Mr. Melrose instanced the Flinders Ranges—where, because of the physical nature of the country, it would not be possible to destroy burrows. If the proviso is deleted the defendant would be put in a position of being convicted for something on which he has no defence, and I do not think we should pass legislation of that nature. Whilst I

entirely agree with members who want to get rid of rabbits, I ask members to leave the clause as it is.

The Hon. A. J. MELROSE—I think the Attorney-General is losing sight of the fact that a prosecution under this clause is always lodged by district councils, the members of which are neighbours and fellow landowners, and I am certain no council would launch a prosecution against any man who could not adopt these methods; indeed, councils are usually loth to prosecute anyone. I do not think the Attorney-General need have any fear that councils would launch harmful prosecutions.

Amendment carried; clause as amended passed.

Remaining clauses (4 and 5) and title passed.

Bill reported with amendments and Committee's report adopted. Read a third time and passed.

CROWN LANDS ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from October 15. Page 1046.)

The Hon. K. E. J. BARDOLPH (Central No. 1)—I support this measure which, as the Minister indicated, has been introduced to deal with what I might term ghost towns where subdivisions have taken place but very few allotments have been sold and no business centres have been established. I wish to make observations with regard to people's rights which continue even though those people may have died. This Bill gives authority to the Minister through the Director of Lands to issue a proclamation. We have always taken the stand in this Chamber against proclamations because we believe in the issuing of a regulation which can be discussed in Parliament and if necessary disallowed. In this measure the Minister can issue a proclamation and declare that certain allotments will be vested in the Crown. I think that all legislation determines a period from which a proclamation shall operate in order that people affected may attempt to establish their rights. The Minister in his speech said:—

A proclamation will declare that the allotments to which it applies will be vested in the Crown as from a named day.

That may mean within two or three days of the making of the proclamation. Immediately a proclamation is issued, or very shortly afterwards, the land becomes vested in the Crown, and then the onus is on the people who are interested in the blocks to make an application through the local court. The Minister went on:—

Notice of the acquisition must be given to every person having a right to compensation who is known to the Minister or who, after diligent inquiry, becomes known to him.

I think the Minister should clear up that point, because that wording does not protect the rights of individuals. In my opinion those words mean that the land can be vested in the Crown within a few days. The Minister continued:—

After the preliminary procedure any person claiming compensation may bring an action for such compensation in a court of competent jurisdiction.

That bears out the previous point I have made, namely, that after a proclamation has been issued and the land has been acquired by the Crown the responsibility is thrown upon the rightful owners to incur the expense of going to court in order to prove their rights to such land. I do not think that is the usual procedure we adopt in these matters. The Minister continued:—

Under the present law, however, disputed claims for compensation have to be settled by arbitration, the arbitrators being a judge of the Supreme Court and two persons appointed respectively by the claimant and the Crown. Past experience has shown that arbitration under Part X of the Crown Lands Act is an unsatisfactory procedure. Furthermore, there are no special provisions in this Bill intended to protect the Crown by limiting or defining the basis of compensation and owners will be entitled to the full value of their blocks.

Earlier in his speech the Minister mentioned that whilst the provision in the Act was passed to facilitate the acquisition of land it had, in effect, a purpose other than that for which it was intended. He said:—

However, Part X was designed for the acquisition of large estates for subdivision and closer settlement and is completely unsuitable for the acquisition of isolated town allotments. It takes years to go through the necessary steps and it is by no means certain that the Crown can ever obtain a clear title at all. It seems that Part X was passed not to facilitate acquisition, but rather to make it very difficult.

I submit that under this Bill the rights of people will not be preserved, and the onus will be thrown on them to claim their titles. Whoever they may be, the owners have rights, and even though they do not happen to be living at the time they still have rights which should be preserved. Under the Bill these rights can be taken away by proclamation, and if those entitled to benefits come along to claim them, they have the responsibility of going to court to prove those rights.

It was rather surprising to hear the Attorney-General mention that Part X of the Act was not designed for the purpose of facilitating acquisition but was, in effect, designed to nullify acquisition. We should be very careful what legislation we pass, irrespective of what Government may be in power. We should be careful that the rights of individuals are not frittered away, because it is on these issues that our very Australian way of life is attacked. I hope the Minister will consider the points I have made and explain exactly what is meant in those respects.

The Hon. R. R. WILSON (Northern)—I support the Bill which is a very important one and long overdue. Its provisions will not apply generally because most of the land referred to is located in the northern part of the State. About 100 years ago this land was surveyed for the purpose of building towns and reserving park lands because it was visualized that there would be more people in these parts than has proved to be the case. Land has been surveyed in 20 or 25 such places, and in some cases only a very few blocks have been applied for. Quite a number of the owners of these blocks are deceased, and the Land Board has had considerable difficulty in tracking down the titles to this land. Officers of the board have to conduct searches at the Lands Titles Office, and this takes a lot of time and becomes very costly. Under the Bill the Government may acquire the land when the Minister is satisfied, on the recommendation of the Land Board, that it is no longer required for townships or park lands. Much of this land is a dumping ground for rubbish and it encourages vermin. Much of it is not owned by anybody. The purpose of the Bill is to make these areas Crown lands. This is a very necessary measure, and I hope it will receive the support of this Council. Compensation is available to owners and they will be much better off by receiving something in the way of compensation than they would by holding the land with no prospect of making any use of it. I support the Bill.

The Hon. C. D. ROWE (Attorney-General)—Mr. Bardolph said that he feared that under this Bill some people who had certain rights in respect of these allotments might have them taken away without adequate provision for their rights being protected. If the honourable member reads the Bill carefully he will see that there is complete and adequate protection. The Bill is not aimed at dealing with the acquisition of land in large estates but rather it is designed purposely to deal with this one particular problem where small townships were surveyed years ago and the expected development has not taken place. People acquired one or more allotments in these townships and in many instances they have disappeared and there is no record of them or their heirs.

The Bill will enable this land to be dealt with in a satisfactory way. Where the Minister is of opinion that it is expedient to acquire these allotments he must give notice in the *Gazette* and in the newspaper circulating in the district, stating that he proposes to take action in the matter. A notice of acquisition must also be served on the owner and any person who has an interest, and it must be served either personally or by post at his last known address. Finally, any action which anybody may have for compensation can be brought within a period of six years after the acquisition. With all these safeguards, the Council can accept the Bill with very little fear that injustice will be done to anyone.

Bill read a second time and taken through its remaining stages.

RENMARK IRRIGATION TRUST ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from October 15. Page 1048.)

The Hon. F. J. CONDON (Leader of the Opposition)—The original Act was assented to in 1936 and it has been amended almost every year since. The Bill confers on the Renmark Irrigation Trust power to acquire land compulsorily or by agreement in order to carry out certain works which have become necessary as a result of experience in the recent Murray floods. The powers sought are necessary, otherwise unreasonable landowners may be responsible for a considerable amount of damage. Among other things, the trust will have power to acquire land, but in this respect we should be careful. I remind members that not long ago a court case arose because the Education Department desired to purchase some land in the metropolitan area, but no agreement could be reached with the owner. The Department took the case to court. However, to everyone's surprise its original offer was accepted. Also over recent years the Harbors Board has acquired land at Port Adelaide. The trust has done a very fine job and I consider that the powers sought are reasonable, and therefore support the second reading.

The Hon. C. R. STORY (Midland)—I also support the Bill, which has been the subject of

inquiry by a committee in the House of Assembly. It met on three occasions. There was no response to advertisements in the *Advertiser* and the *Murray Pioneer* calling for witnesses, but the secretary of the trust indicated its support of the Bill. I doubt whether there will be much objection to it, but there are a few aspects we should consider. The measure is necessary because the trust found during the flood that it had no power to enter private property and erect banks, and it was only by agreement with the owners that it was able to do this work. Had one person objected to the trust's desire to raise banks, a gap could have been left in the whole chain of defence. These banks having been erected, the trust should now have power to acquire them and declare a levee reserve for a certain number of feet on each side of each bank, which should be kept in repair so that we do not find ourselves in the position operating at the time of the 1956 flood.

The trust will have to be particularly careful in assessing the value of land for acquisition, because in the process of erecting the banks much damage was sustained by landholders. The trust has left most of the banks just as they were when the water subsided. Many fruit trees and vines were removed in raising the levees, and thus people were deprived of portion of their land and portion of their livelihood. If the power sought is not given to the trust, before long people will start bulldozing the banks down to try to get the land back into production by placing irrigation channels and drainage pipes through them. Therefore, I am particularly keen to see this compulsory acquisition power given to the trust.

Provision is made for the land to be acquired either by agreement or acquisition. I think that in most cases complete agreement will be reached. I would hate to see the trust involved in a great deal of strife because owners decided to approach the court to settle the compensation due to them. I issue a warning to the trust that it should be particularly careful. The Act provides that the value of the land must be considered in respect of severance. This is important in irrigation areas, because a man may have only 10, 15, or 20 acres, for which he has provided improvements in accordance with its capital value, and if three or four acres were compulsorily acquired it would result in his property being overcapitalized, because the plant used was in accordance with the production of the whole of the original property. Therefore, severance would play a big part in the assessment of the value of properties. Banks may have been erected through the centre of rows of vines or at the headlands, where normally implements would be turned or the water reticulated.

I do not quite know who will pay the settlers under the compulsory acquisition powers. I believe a huge amount will be involved in acquiring these lands, the normal value of which would be between £150 and £200 an acre; and when one considers that the banks around Renmark extended for 23 or 24 miles, it can be realized that much land is involved. I would not be surprised if the trust were forced into the position of having to approach the Government for assistance.

The trust has been a unique body for years. It has had no writing down, has paid back the moneys borrowed, and has given great service to the people in the area. Those who devote their time in serving on the trust do a remarkably good job, which involves much more work than if they were on a district council. The trust has the powers of a district council, and in addition has the duty of water management. To say the least of it, its work is complex. The one danger is in relation to the value of the land acquired. It would be a tragedy if the trust were forced into the court and faced with financial difficulties because of the acquisition of land.

The Hon. W. W. ROBINSON secured the adjournment of the debate.

ROAD TRAFFIC ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from October 15. Page 1046.)

The Hon. A. J. SHARD (Central No. 1)—Generally I support the Bill, which is important and deserves our earnest consideration. It sets out to do two or three things; firstly, it attempts to make the work of the Motor Vehicles Department easier and more fluent; secondly, it increases penalties for drunken driving; and thirdly, it attempts to make the very vexed question of right hand turns clearer. However, I do not think that the clause relating to right hand turns does what it is intended to do.

This is mainly a Committee Bill, but I wish to make one or two observations on road traffic matters in general because of the development of traffic in this State and particularly in the metropolitan area. I thought that a definite stand would have been taken to

stop the very dangerous practice of motorists making U turns in King William Street. Not only taxicab drivers act in this most thoughtless and dangerous manner. I walk to Parliament House from Gouger Street two or three times a week and the number of near accidents caused by vehicles making U turns astounds me.

The Hon. L. H. Densley—Do you mean between intersections?

The Hon. A. J. SHARD—I have no objection to U turns at intersections. The honourable member could walk from here to the G.P.O. and he would see at least one motorist making a U turn away from an intersection.

The Hon. N. L. Jude—They are prosecuted for doing that.

The Hon. A. J. SHARD—If the Minister gave me figures I would believe that, but I have never seen one motorist stopped by city council inspectors or police officers. Something should be done about these turns. Turning against the red light in proper circumstances is a useful innovation, but only last Friday I saw a woman knocked down at the corner of Currie and King William Streets by a motorist turning against the red light.

The Hon. Sir Arthur Rymill—That turn, if properly used, is very good.

The Hon. A. J. SHARD—It is, but it is abused every day of the week yet nobody ever stops offenders. Taxi drivers are not the main offenders, because they have improved their road manners tremendously. Yesterday I saw a private motorist forcing his way through a stream of pedestrians crossing to the Gresham Hotel. Unless this practice is stopped, Parliament will have to provide once again that it is an offence to turn against a red light.

With the advent of motor buses running in conjunction with trams, the parking of cars in King William Street and King William Road has caused many traffic hazards, particularly at peak periods. Rightly or wrongly, the Tramways Trust has decided to use buses in preference to trams, and I think it will be a good thing when tramway standards and lines are removed from King William Street. However, the day is not far distant when it will be necessary to have a total ban on parking in King William Street between Gouger Street and North Terrace. We will have to adopt the practice in operation in other cities of banning parking to permit a free and safe flow of traffic. In Swanston Street, Melbourne, nobody is allowed to park after 9 a.m., or to stop other than at a traffic light or to put down passengers.

The Hon. N. L. Jude—King William Street is a lot wider than Swanston Street.

The Hon. A. J. SHARD—But traffic jams occur in King William Street. In George Street, Sydney, no cars are permitted to park; if a motorist parks there, his car is towed away. I agree that that street is narrower than King William Street, but because of tram tracks and standards, the passage way in King William Street is probably narrower. I do not think it is reasonable to have parking in King William Street, particularly taxicabs waiting for fares, because buses have to pull into the kerbs, and it is often difficult for them to do this because of the presence of parked vehicles. I am sorry to see that, notwithstanding the fact that Mr. Bardolph has suggested that flares should be placed near stationary semi-trailers, this Bill does not contain any clause to deal with this matter.

The Hon. N. L. Jude—It will be done by regulation.

The Hon. A. J. SHARD—The sooner it is done the better. If flares had been compulsory it is possible that a member of Parliament who was killed recently would still have been with us. Heavy vehicles are often parked without any lights, and the sooner flares are obligatory the safer the roads will be for other road users. I do not want to be vindictive to the drivers of these vehicles, but something should be done to prevent accidents because every life is so important, not only to the families of the people concerned, but to the country in general.

Clause 11 increases the maximum penalty for drunken driving from £50 to £100, and I do not think anyone could object to this. A person who drives a vehicle when he is under the influence of liquor knows the penalty, and should not object if he is caught. My only comment is that I do not think the fines are a sufficient deterrent. Almost every night of the week somebody is arrested for driving under the influence of liquor. Last month 51 people were prosecuted for this offence. I do not think anyone wants to see this offence increase, and if increased penalties are a deterrent, everybody would be happy to have them raised. However, money is no object to some people, so it might be necessary in future to make gaol the penalty for the first offence. I hope it will not come to that, because I hope the motoring public will see the error of its ways. Clause 13 amends section 67 (3). This subsection was inserted in 1951, and provides:—

If a person drives a motor vehicle while his licence is suspended or while he is disqualified from holding or obtaining a licence he shall be guilty of an offence and liable to imprisonment for not more than six months.

The amendment adds the words "on a road" after the word "vehicle" in the first line and thus makes the penalty for driving while under suspension lighter rather than heavier. Why the Government is prepared to do that is beyond me; it would have been bad enough to make the penalty lighter for a person driving on his own property while under suspension. Although this provision was inserted in the Act only six years ago, the Government now proposes to take it out, and I would like to hear more from the Minister on the reason for this. I want to hear some of the legal men on this clause, because I can only look at it from a layman's point of view.

A person may be charged with drunken driving. He may have had a serious accident and possibly injured somebody; he is fined and his licence is taken away from him, but because he is working on the land or on some private property his livelihood is not affected. Another man charged with drunken driving may not even have had an accident or hurt anyone; if he is in the unfortunate position of being a travelling grocer or draper, transport driver, taxi driver or commercial traveller and his licence is taken away from him, his livelihood is possibly lost. I do not know why there should be any difference.

I know that all sorts of reasons could be advanced that a man can do what he likes on his own property, but I cannot understand why the Government wishes to stipulate something different between two persons charged with the same offence. Why should there be two different penalties? I am not satisfied with the Minister's second reading speech in this respect. Clause 11 increases the penalty as an added deterrent, and why the Government wants to add another clause which makes the penalty less in some circumstances than it was in 1951 is beyond me. A person should not receive a lighter penalty than another person for exactly the same offence.

Clause 17 helps the motorist. My understanding is that buses and similar vehicles are compelled to stop at all railway crossings. The Bill provides that they do not have to stop at crossings where there are lights, gates or other warning signals. I think that is a good provision, and it will certainly help to keep the traffic flowing at these places. Stop signs are very good if they are obeyed, and I have come to the conclusion that most people obey them but that sometimes the signs are in places where they cannot easily be seen. I recently travelled in the eastern States and found that it was a growing practice in those States to paint on the road about 50 to 100ft. back from a stop sign the words "Stop Sign Ahead." I saw numerous such signs on the roads between Brisbane and Sydney, and they are very helpful.

The Hon. L. H. Densley—They are in Adelaide too.

The Hon. A. J. SHARD—I have seen the one at North Adelaide, but no others.

The Hon. C. R. Story—We have them in Renmark.

The Hon. A. J. SHARD—I hope they are placed everywhere, because I think they are a necessity. I know there is quite a difference of opinion about compulsory stop signs at level crossings, but I think the time is approaching when we will have to make it a law that vehicles stop at all crossings other than those with gates and warning devices. From the figures it would appear that many people do not take the necessary care in observing stop signs, and in the last month there were 67 prosecutions in the metropolitan area and 20 in the country for failing to observe these signs. I have a letter here from the Australian Federated Union of Locomotive Enginemen which seeks further amendments to provide for compulsory stops by all road vehicles at level crossings, with the penalty for breaches prominently displayed on the stop sign. The letter continues:—

> This has been done on all level crossings on the Commonwealth railway line between Port Pirie and Port Augusta and has proved very effective. It appears that drivers are more concerned at the prospect of having their pockets hit than in having their cars hit.

There may be something in that. I commend that to the Government and the State Traffic Committee for their consideration. With the growing amount of traffic in and around Adelaide it is the duty of everybody to do everything possible to prevent accidents, and if these signs save one fatal accident the cost will be well worth while.

Clauses 18 and 19 deal with right-hand turns. I only hope that what the Government intends to do proves right in this case, but I am afraid it will not. Clause 18 gives the Commissioner of Highways power to mark signs on roads. Clause 19 deals with right-hand turns at intersections. If we can make it safer and easier for everybody to nego-

tiate nasty turns and corners I will be quite satisfied. Paragraph (c1) provides as follows:—

If at the place where the turn is to be made there are no lines, words or signs marked on the surface of the road indicating the route to be followed by vehicles turning to the right, he shall before turning to the right drive his vehicle parallel with the left boundary of the carriageway of the road which he is leaving until it as near as practicable to the left boundary of the carriageway of the road which he is entering.

I am not clear on that point. Does that not mean that we go back to the old rule under which we kept on the left-hand side?

The Hon. R. R. Wilson—It is most confusing.

The Hon. A. J. SHARD—Yes, and I would like to have it explained. I have studied it carefully and to be quite frank I cannot follow it.

The Hon. N. L. Jude—There is an amendment to this clause on the files.

The Hon. A. J. SHARD—I do not want to chastise the Minister, but when we are dealing with a problem that concerns every motorist the matter should be as plain and as clear as possible. Quite frankly I cannot understand it. I put it to the Minister that if that verbiage is retained I do not think it will be an improvement. I think that pulling to the centre of the road to indicate that one is going to turn to the right is the best amendment that we have had for years, and if this proposed amendment is going to alter that it should be looked at again.

The Hon. Sir Arthur Rymill—It is only confusing in its language.

The Hon. A. J. SHARD—The legal men clarified this matter to something which Parliament did not intend, and that is why this Bill is here. I am afraid that with the verbiage of that clause the same thing could happen again. It seems quite reasonable that a person making a turn to the right must see that the road is clear, but how will it work at the junction of West Terrace and North Terrace where probably 80 per cent of the traffic that goes around the corner is making right-hand turns in three directions? It is not easy to follow. When travelling over an intersection one often sees a person on one's right and does not know whether that other person is going over the intersection or making a turn. I do not think clause 19 is clear enough, and I do not think the average person who reads it will understand what it means. I hope the Minister will have a good look at it, because I am sure all members wish to know what it means and how it will work. I support the Bill but may have further comments to make in Committee.

The Hon. C. R. STORY secured the adjournment of the debate.

VOLUNTEER FIRE FIGHTERS FUND ACT AMENDMENT BILL.

Received from the House of Assembly and read a first time.

The Hon. C. D. ROWE (Attorney-General)—I move—

That this Bill be now read a second time.

The Volunteer Fire Fighters Fund Act, 1949, sets up a fund to which the Government and insurance companies make annual contributions. The fund is administered by trustees and section 13 provides that it may be applied by the trustees in paying compensation to volunteer fire fighters who are injured whilst engaged in combating fires or, in case of death, to their dependants.

The purpose of this Bill is to extend section 13 to authorize the payment of compensation where death or injury occurs when the volunteer fire fighter is engaged in supervised practice or drill or other duties in preparation for combating fires. The necessity for this provision was made apparent by a motor vehicle accident which occurred early this year during the time a volunteer brigade was engaged in training. The Bill also extends section 13 to cover the case where a volunteer fire fighter is called out on a false alarm and incurs injury whilst so engaged.

A further amendment is made to subsection (3) of section 13 which provides that compensation is not to be paid where the volunteer fire fighter suffers injury by reason of wilfully and knowingly acting contrary to the direction of a fire control officer. It is provided that the trustees will have power to waive this proviso where they are satisfied special circumstances exist which justify the payment of compensation.

The Hon. F. J. CONDON secured the adjournment of the debate.

DAIRY INDUSTRY ACT AMENDMENT BILL.

Received from the House of Assembly and read a first time.

The Hon. C. D. ROWE (Attorney-General)—I move—

That this Bill be now read a second time.

It has been introduced as a result of a general review of the Dairy Industry Act made by the officers of the Department of Agriculture.

The principal Act was passed in 1928, and its object was to improve the quality of South Australian dairy produce. It provided for the licensing of dairy farms, dairy produce factories, milk depots and creameries, and contained provisions to ensure that dairy produce was produced or manufactured under hygienic conditions, and complied with proper standards. There was provision for examining and certifying testers and graders of milk and cream and for ensuring that producers who supplied milk and cream to factories should be paid for these products on an equitable basis.

In the period of nearly 30 years since the Act was passed there has been a considerable change in the dairy industry in this State and the departmental committee reported that some amendments and additions to the Act are required to meet the conditions of today, and to improve administrative practices. After consideration of this report the Government decided that there was a good case for some alterations of the Act and has accordingly brought down this Bill. I will briefly explain to honourable members the effect of the amendments.

Clauses 3 and 4 deal with the territorial application of the Act. Under the existing legislation the Government has power to exempt any part of the State from the whole Act or from any part of the Act, but this power is subject to the restriction that a dairy farm cannot be partly exempt from the Act, but must be either wholly exempt or not exempt at all. For some years dairy farms in proclaimed areas have been treated as being exempt from those parts of the Act which require licence fees to be paid, but such an exemption is not authorized. For this reason the Bill makes amendments to provide that in proclaimed areas dairy farms can be exempted either from the whole Act or from any specified provisions. Subject to these exemptions, it is provided that the Act will in future be of general application. The amendments made by clauses 3 and 4 are for this purpose.

Clause 5 makes several amendments to the definitions in the principal Act. One of them provides that farms on which goats are kept for the production of milk will be treated as dairy farms. There is a growing demand for goats' milk for use in the diet of persons unable to drink cows' milk because of allergies. There is an increased interest in the keeping of goats to meet this demand. An inquiry has also been made on the availability of goats' milk for manufacture of types of cheese in demand by migrants. Where goats' milk is destined for sale for human consumption it is reasonable to expect that places where goats are kept, and conditions under which goats' milk is produced, shall comply with the standards required for dairy farms.

Another amendment in clause 5 is for the purpose of bringing dairy produce stores under the Act. A store is defined as premises (other than a factory, dairy farm, milk depot or creamery) in which one ton or more of dairy produce is stored. In the interests of proper administration of the dairy produce legislation it has been found desirable that some control should be exercised over these stores. In investigating complaints about the quality of dairy produce the Department of Agriculture has from time to time found that the deterioration of produce is due to faulty conditions in dairy produce stores or faulty methods of storage. To overcome this trouble it is desirable that the stores should be licensed. It is not proposed, however, that stores which are already registered under the Commonwealth Export Dairy Produce Regulations shall have to be licensed under this Bill. It is considered that where a store is subject to Commonwealth control there is a sufficient guarantee that the conditions will be satisfactory. Such stores are accordingly excluded from the definition.

The other amendments made by clause 5 are to the definition of "creamery" and "milk depot." The object of these amendments is to make it clear that premises forming part of a factory where cream is collected or milk is collected, pasteurized and chilled, will not be regarded as creameries or milk depots within the meaning of the Act so as to require separate licences, unless the milk or cream is to be taken elsewhere for manufacture or other purposes.

Clause 6 requires that a person who is about to establish a factory, creamery, store or milk depot either by building new buildings, or converting existing buildings, must deposit plans and specifications of the buildings with the Minister and obtain his approval to them. It is laid down that the Minister must approve of any plans and specifications submitted to him, unless they are not in compliance with the regulations. After plans and specifications have been approved the premises must be built in accordance with them. There is, however, power for the Minister to exempt minor alterations of premises from the operation of this section. Clause 7 makes a consequential alteration of headings in the Act.

Clause 8 makes some alterations in the licensing system. Under the present law any

application for a licence for any kind of premises under the Act may be made to a police officer. It is provided in the Bill that every application for a licence for premises other than a dairy farm must be sent to the Chief Dairy Adviser, that is, to the Adelaide office. Applications for licences for dairy farms, however, will be dealt with by police officers as in the past. With regard to factories, creameries, milk depots and stores, however, it is necessary that applications should be dealt with by officers of the head office because of the greater complexity of the premises and the importance of ensuring that they comply with the law before a licence is granted. In connection with licences, it is also proposed to increase some of the fees. The fee for a licence for a dairy farm, which is at the rate of 6d. per cow, will remain at the present rate, but the fees for factories, milk depots and creameries will be doubled. These fees were fixed in 1928 and are very light. The licence for a factory now costs £2 and for a creamery or milk depot, 5s. Under the Bill it is proposed to raise these amounts to £4 and 10s., respectively. As a consequence of the extension of the Act to the production of goats' milk, it is also necessary to provide for the licensing of goat farms, and the fee for such a farm will be at the rate of 6d. per goat.

Clause 9 re-drafts with amendments the provision of the Act dealing with the obligations of proprietors of factories, milk depots and creameries as to the payment for milk and cream supplied by producers. There are two amendments of substance. The first deals with the period for which payments for what is called the over-run will be calculated. At present the Act does not lay down the intervals at which these payments must be made, but the practice is to compute them on a monthly basis. It is proposed in the new clause to lay it down that the period for which over-run payments are paid will be such as is prescribed by regulation. It is probable that annual payments will be prescribed. The second amendment makes it clear that over-run payments are to be pooled between all suppliers. In other words, no attempt need be made to calculate each producer's payment on an individual basis on the assumption that one producer's cream may produce more butter than that of another. This would be impossible, but the Crown Solicitor advises that under the present law each producer may have a right to have his over-run payment computed separately.

Clause 10 re-enacts section 20 of the principal Act with amendments. At present this section prohibits the manufacture of dairy produce from putrescent milk or cream and lays it down that such milk or cream must be removed and disposed of in accordance with the regulations. It is proposed to extend this provision so that it will also apply to milk or cream which, though not putrescent, is for any other reason unfit for human consumption, *e.g.*, because it is dirty or contains foreign bodies. Secondly, the scope of the section is extended so that it will apply not only to milk and cream supplied to a factory (as at present), but also to milk and cream supplied to creameries and milk depots.

Clause 11 provides that the owner of a cheese factory must cause all cheese manufactured at the factory to be marked in accordance with the regulations. The object of this is to ensure that identifying marks are placed on cheese so that it will be possible to ascertain who manufactured it. When the department is investigating complaints about the quality of cheese it is essential that the officers should in all cases be able to trace the manufacturer.

Clause 12 amends section 24 of the principal Act which deals with the requirement that testers and graders of milk or cream must hold certificates of qualification. The amendments repeal some obsolete provisions dealing with the time of the commencement of the section and also makes it clear that separate certificates are to be issued for testers and graders respectively.

Clause 13 provides that the Minister may issue butter makers' or cheese makers' certificates to persons who qualify for them under the regulations. There is no provision for these certificates at present. It is, however, not proposed at this stage to place any restrictions upon persons who may act as butter makers or cheese makers. The effect of the clause will be that those who comply with the prescribed requirements will receive certificates which will be evidence to prospective employers that the holders are properly qualified. Clause 14 increases the general penalties for breaches of the Act from £10 to £50. Clause 15 declares that a number of minor amendments set out in the schedule are to be made. These are mostly consequential amendments made necessary by the fact that dairy produce stores are being brought under the Act.

The Hon. F. J. CONDON secured the adjournment of the debate.

ADVANCES FOR HOMES ACT AMENDMENT BILL.

Received from the House of Assembly and read a first time.

The Hon. C. D. ROWE (Attorney-General)—I move—

That this Bill be now read a second time.

The principal purpose of this Bill is to extend from £1,750 to £2,250 the amount of the maximum advance which may be made by the State Bank under the Advances for Homes Act. It will be recalled that an amendment of the Homes Act was recently before this House when the limit on loans under that Act was increased to £2,250. Clause 2 makes the various amendments to the Advances for Homes Act necessary to amend the policy under that Act in line with the policy under the Homes Act. In addition, a number of administrative amendments are made by the Bill to the Advances for Homes Act.

Section 32 of the Act provides that when the bank makes an advance the term of the advance, in the case of a dwellinghouse constructed of brick, stone, or concrete, is not to exceed forty-two years, in the case of timber-framed houses, twenty years, and in the case of houses of composite structure, such period as is determined by the bank. The bank is of the opinion that a term of twenty years for a timber-framed house is too short and has the effect of making unduly high the amount of the instalments payable by the borrower. The bank has suggested that there should be one limit applicable to all houses, namely, forty-two years, and this is provided by clause 3.

Subsection (7) of section 32 provides that a borrower may at any time repay over and above what he is required to do by his instalments, any sum being one pound or a multiple of one pound, in which event the instalments payable are to be re-adjusted. The bank has found that in may cases borrowers will, if they are allowed, repay odd amounts other than multiples of one pound, and that they do not wish instalments to be altered. The bank is therefore of opinion that the subsection is too rigid in its present form and clause 3 provides that a borrower may, in addition to his instalments, repay any amount, and that the amount of the instalments are not to be adjusted unless the borrower so requests.

Clause 3 provides that in any future mortgage or agreement for the sale or purchase of a dwellinghouse it may be provided that the interest payable under the mortgage or agreement is to be varied at the expiration of periods specified in the document. It is now the practice of most lending institutions to provide that, after a period, the interest paid under a credit foncier mortgage will be revised by the lending institution, when, of course, the interest rate may be increased or decreased according to the current price of money. The bank is of opinion that power to do this is desirable, and the clause makes provision accordingly.

Section 40 provides that in default of the borrower carrying out necessary maintenance on his property, the bank may carry out the necessary work. The cost of so doing is payable by the borrower, together with interest at the same annual rate which is payable on the purchase price or advance. It is felt that the interest to be paid on such amounts should be that current at the time the work is actually done, and clause 5 therefore provides that interest under those circumstances is to be that payable on advances made by the bank under the Act at the time it is effected.

Clause 6 redrafts section 43 of the Act which provides that the bank is from time to time to obtain reports as to the manner in which advances have been expended. The bank has suggested that this section be redrafted in the form contained in clause 6 which provides that the bank may make such inspections and obtain such reports as it deems necessary for the protection of its securities. Thus, instead of the duty of the bank, by the language of the section, being mandatory as is now the case, it will be incumbent on the bank to make these inspections when necessary to protect its securities, but not otherwise.

The Hon. K. E. J. BARDOLPH secured the adjournment of the debate.

MAINTENANCE ACT AMENDMENT BILL.

Received from the House of Assembly and read a first time.

The Hon. C. D. ROWE (Attorney-General)—I move—

That this Bill be now read a second time.

Section 150 of the Maintenance Act, 1926-1952, provides that the Children's Welfare and Public Relief Board may pay a sum not exceeding £1 10s. a week to any parent or person in charge of any State child or to the foster parent of any State child. In special cases the Minister may authorize the payment of a greater sum. The amounts paid at present, which have been fixed by regulation, are £1 5s. a week for pre-school children and children attending primary schools, and £1 10s. a week for children attending secondary schools. The purpose of the Bill is to increase the upper

limit of payments from £1 10s. to £2 10. The last amendment to the section was made in 1950 when the limit was increased from £1 to £1 10s.

The Hon. A. J. SHARD secured the adjournment of the debate.

ROAD AND RAILWAY TRANSPORT ACT AMENDMENT BILL.

Received from the House of Assembly and read a first time.

The Hon. N. L. JUDE (Minister of Roads)—I move—

That this Bill be now read a second time.

It has been introduced to enable the Government to deal with claims made by interstate carriers for the refund of licence and permit fees paid to the Transport Control Board. Members are aware that carriers whose vehicles are used exclusively in interstate trade have been held by the courts to be exempt from State Acts so far as they require registration of vehicles or the payment of fees for permits or licences to operate on controlled routes, or the payment of contributions to road maintenance. The success of the interstate carriers in their attacks on our legislation has invariably been followed by claims for refunds of fees or charges paid to State authorities under the legislation subsequently held to be invalid. A large number of such claims are now being dealt with by the Government. A number of writs have been issued by the claimants and it is probable, in view of the latest decision of the High Court, that there will be a good many more.

There is reason to believe that most of these claims have little merit. The carriers have treated the fees and charges paid to State authorities as items in the costs of operation and have accordingly made allowance for them in fixing the charges made to their customers. If they are now to receive refunds of these charges at the expense of the taxpayer, the effect would be to give them a gratuitous profit to which they have no just claim. The State previously dealt with this type of claim in the Transport Administration (Barring of Claims) Act, 1954. However, a New South Wales Act similar to ours was held to be invalid and it is clear that the State cannot bar these claims unconditionally. But the High Court in its judgment in the New South Wales case indicated some sympathy with the State's attempt to free itself from claims for refunds. In the judgment the following passage appears:—

> The Statute in question (*i.e.*, the New South Wales Barring of Claims and Remedies Act) does not give the plaintiff some other remedy by which he may regain the money or obtain reparation. It does not impose a limitation of time or require affirmative proof of the justice of the claim. It simply extinguishes the liability altogether, not only the liability of the officers of the State, but of the State itself.

This passage implies that a limitation of the right of recovery as opposed to a complete bar might be valid. For example, the judgment may mean that if a State law, instead of barring claims altogether, merely says that a plaintiff cannot recover unless he proves affirmatively the justice of his claim, it might be upheld as being within the power of the State. As there are good reasons for believing that some of these claims are not just, the Government has introduced this Bill.

It provides that when a person makes a claim for the recovery of fees paid to the Transport Control Board he shall not be entitled to recover unless he shows that his claim is just and equitable, having regard to all the circumstances and particularly having regard to the question whether his charges for transport have included an amount to cover the fees paid by him. If this Bill is passed the Government will be in a position to protect the general revenue of the State and the taxpayers, as far as possible, against claims which are without merit.

The Hon. S. C. BEVAN secured the adjournment of the debate.

ACTS INTERPRETATION ACT AMENDMENT BILL.

Returned from the House of Assembly without amendment.

STATUTE LAW REVISION BILL.

Returned from the House of Assembly with an amendment.

METROPOLITAN TAXICAB ACT AMENDMENT BILL.

A message was received from the House of Assembly intimating that it agreed to the Legislative Council's amendments.

AGRICULTURAL SEEDS ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from October 17. Page 1157.)

The Hon. F. J. CONDON (Leader of the Opposition)—The amendments are consequential on the Noxious Weeds Act, which was

repealed in 1956 by the Weeds Act. An advisory weeds committee was then appointed. Although only a small Bill, it is of importance to the agricultural industries, and I support the second reading.

The Hon. R. R. WILSON (Northern)—This is an important Bill, because it is necessary to keep control over our agricultural seeds. A number of dangerous seeds enter the State from time to time and it is difficult to prevent their introduction, especially by travellers from overseas. Often these seeds are brought in with goods. One which has done tremendous damage on Eyre Peninsula, particularly to the Wanilla settlement, is the African daisy. It came to this State many years ago, when the railway was being laid on Eyre Peninsula, in material around goods which was used as ballast on the railways. It has proved very expensive to the Wanilla settlers, who have suffered a severe setback. Last year four of them were exempted from their commitments to enable them to combat the menace. The Bill will enable the department to keep control of agricultural seeds.

Bill read a second time and taken through Committee without amendment. Committee's report adopted.

REGISTRATION OF DOGS ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from October 17. Page 1144.)

The Hon. K. E. J. BARDOLPH (Central No. 1)—I support the second reading and compliment the Minister on the research undertaken to give the history of the fees paid since 1862 for the registration of dogs. I was wondering whether his department was considering making a charge on cats and birds to help fill the State's coffers.

The Hon. L. H. DENSLEY (Southern)—I support the Bill. The Stockowners Association has considered this matter and believes that if people had to pay something extra to register their dogs they would not keep an unnecessary number. Dogs can be a tremendous menace in pastoral country where sheep and lambs are kept, and it was felt that if the fees were increased people would be less likely to keep surplus dogs and only retain those for which they had sufficient work, or a desire to keep them as watch dogs and for such purposes. The amount of damage done by wandering dogs is sufficient to justify the request of the association, and I commend the Minister on having introduced the Bill.

The dog nuisance applies not only in country areas, but in some metropolitan areas it is so great as to depopularize the district. They are particularly a nuisance at some of the metropolitan beaches, where they are found literally in packs making targets of people's clothing and luncheon baskets and are a general nuisance. I am sorry that the beach councils have not the courage to put their by-laws into operation to deal with this nuisance. I hope that this increase in fees might tend to have some effect in that direction also. I would think that there would be a decrease in dogs with the higher fees. I hope there will be a decrease in the number of German Shepherd dogs with the proposed fee of two guineas. I do not know whether they have become popular, but I think it would be a good idea if people were discouraged from rearing dogs that have become a menace.

The Hon. C. R. STORY (Midland)—I, like Mr. Densley, agree that the increase in dog registration fees may assist in reducing the number of dogs. There is nothing nicer than a good dog, but the dogs that run wild around the city and country towns are a menace. It is 67 years since the fees were increased, and I cannot see why we have had to wait so long to bring this matter into line with other increases. Like other matters that have been before us in the last few days, if things were brought before us gradually there would not be so many howls. These fees double the previous fees in one hit, and it would have been preferable to increase them gradually. I do not know whether the responsibility is on the departmental heads or the Minister, but these rates should be gradually increased instead of waiting for 67 years and then double them.

Bill read a second time.

In Committee.

Clause 1 passed.

New clause 1a.—"Amendment of principal Act, sections 5, 18, second and third schedules."

The Hon. N. L. JUDE (Minister of Local Government)—I move to insert the following new clause:—

1a. (1) The definition of "dog" in section 5 of the principal Act is amended by striking out the word "female" and by inserting in lieu thereof the word "bitch."

(2) Section 18 of the principal Act is amended by striking out the words "female dog" in the first and the tenth lines thereof and by inserting in lieu thereof in each case the word "bitch."

(3) The second schedule to the principal Act is amended by striking out the words "female dog" therein and by inserting in lieu thereof the word "bitch."

(4) The third schedule to the principal Act is amended by striking out the words "female dogs" wherever occurring therein and by inserting in lieu thereof in each case the word "bitches."

I am glad that so many members have seen fit to speak on this Bill, and also that some realistic remarks have been made about an old-fashioned measure that was brought in nearly 100 years ago. The actual reason for moving this new subclause is to bring the Act up to what I am certain is the verbiage of modern usage. A very eminent citizen and dog lover has written to me in doggerel as follows:—

The Honourable Norman Jude,
Thinks it robust and rather rude
That "slut" should be the appellation
Of females of the canine station:
If "female dog" is "nice" and trite,
Then "female man" is surely right?
So be correct and aptly choose
The term that doggy lovers use;
With proper words our tongue is rich,
Let's use the right one here—it's bitch.

Consequently, the amendment provides that the recognized verbiage of today will be used, and I feel it would be right to reply in doggerel:—

So further to my second reading
I now would add another pleading;
When the draftsman "filled and cut"
He wouldn't have the old word 'slut'
"A 'female dog' would meet the need
Of every type of canine breed."
I told him that he's queered the pitch.
The only proper term was "bitch."
A word that would get approbation
From doggy folk of every station.

New clause 1A inserted.

Remaining clauses (2 and 3) and title passed.

Bill reported with an amendment and Committee's report adopted.

Read a third time and passed.

S.A. RAILWAYS COMMISSIONER'S ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from October 17. Page 1144.)

The Hon. F. J. CONDON (Leader of the Opposition)—I am somewhat tired of supporting Government Bills, so I am opposing this measure. This legislation is designed to hand over powers that should be the prerogative of the police. If we pass this legislation, it will not prevent any other Government department or any private employers asking the Governme for similar powers. We must be careful in passing legislation such as this. I have every confidence in the Police Department, and the police are the proper people to control this work. We all regret that a certain amount of pilfering goes on, but surely the police have sufficient power.

The Hon. E. Anthoney—Do you think we have enough policemen?

The Hon. F. J. CONDON—They are doing a good job, which I think the Government recognizes by its introduction of the Police Pensions Bill. We are encouraging people to enter the police force, and the police are very fine types of men. Under this Bill the Railways Commissioner will have power to make by-laws to enable railway detectives to search vehicles and to apprehend persons on railway property. It is true that the by-laws would be subject to disallowance by Parliament, but we all know that by-laws can be passed when Parliament has no opportunity to consider them for five or six months. If by-laws are extended to some people, they can be extended to others. This legislation will be an embarrassment to honest people, and the onus of proof is on suspected persons, which reflects on the honesty of the average citizen. Many people purchase articles in big emporiums and get dockets, but most people destroy them, and they are then under suspicion if they cannot produce them.

The Hon. N. L. Jude—I have never seen a case cited in the press where damages have been claimed for wrongful detention.

The Hon. F. J. CONDON—I am concerned with the rights and privileges of individuals.

The Hon. N. L. Jude—So am I.

The Hon. F. J. CONDON—Not under this legislation. If you are going to give the powers of police officers to certain individuals because they are in the employ of the Railways Commissioner, you will be doing something you will be sorry for. I oppose the second reading of this Bill because I think it interferes with the liberty of the subject.

The Hon. E. ANTHONEY (Central No. 2)—At first glance it might appear that there may be something in the statement made by Mr. Condon, but it must be borne in mind that the Railways Commissioner has his own officers.

The Hon. K. E. J. Bardolph—Don't you think the Railways Commissioner has sufficient power now?

The Hon. E. ANTHONEY—Parliament has given him power, but the point is he has his own officers. We all know that there is a tremendous amount of pilfering on the waterfront and on the railways in all States. I think this is the only State in the Commonwealth where the Commissioner's officers have not

the power to do the very things the Commissioner is asking power to do now.

The Hon. A. J. Shard—How long have they had those powers in the other States?

The Hon. E. ANTHONEY—I do not know, but I think they all have that power.

The Hon. Sir Arthur Rymill—There is nothing unusual about railway detectives.

The Hon. E. ANTHONEY—The railway detective is not dressed up in a uniform so that his presence could be immediately detected by some guilty person. It is not the innocent party that is going to be charged but the person about whom the detective has a reasonable suspicion that he may be engaged in a criminal act. The detective is there to protect the property of the Commissioner and taxpayer. If he were dressed as an ordinary policeman I have no doubt he would betray himself to the guilty person. His duty is to catch the people who have no respect for the property of the Commissioner or the taxpayer. We should try to give the Commissioner the powers which he seeks.

The Hon. K. E. J. Bardolph—Hasn't he sufficient power now?

The Hon. E. ANTHONEY—Apparently he has not, and he is asking for this power. At the moment his officers have not the power desired.

The Hon. F. J. Condon—Why should they? There is a Police Department to deal with these matters.

The Hon. E. ANTHONEY—The Police Department cannot deal with all these things, especially with the shortage of police in this State. I can see little harm coming from this and a lot of good, and I therefore support the Bill.

The Hon. S. C. BEVAN (Central No. 1)—I oppose the Bill, particularly clause 3. Mr. Anthoney stated that at first glance one would think that there was something in the point made by Mr. Condon but on reflection he says there is no danger in the Bill. Apparently the desire is to stop pilfering of railway property and property in the charge of the Railways Department. My understanding of the position is that the railway detectives have power now to stop that sort of thing, and that is what they were appointed for. This Bill is an interference with the rights of the people. I know what my reaction would be if one of these individuals approached me on the railway station and demanded that I open a parcel which I was carrying. The Bill lends itself to that very thing.

The Hon. E. Anthoney—What if a policeman did the same thing?

The Hon. S. C. BEVAN—I am not talking about a policeman. I do not agree that a person should be given the powers sought in this Bill.

The Hon. N. L. Jude—Do you realize that these men are ex-policemen?

The Hon. S. C. BEVAN—I do not care whether they are or not. A policeman has powers, and everyone appreciates that. It is possible that one of these railway detectives may know that a person has done something wrong previously, and he may like to get the wood on him; he could ask him what he has in a parcel he was carrying, and that person might tell him to mind his own business. He would then be arrested.

The Hon. N. L. Jude—How long would the detective remain in his job if he did that?

The Hon. S. C. BEVAN—I submit that his answer would be that he suspected that the goods being carried by this person were wrongly obtained, and by saying so he would exonerate himself. That would be approaching the position of a police State.

The Hon. Sir Arthur Rymill—Couldn't that same argument apply with the police force?

The Hon. S. C. BEVAN—A constable has power to do certain things; if he suspects a person has stolen goods he can demand an inspection and if his suspicions are unfounded he can be and is exonerated because of the fact that he suspects. The same thing could happen under this Bill. I may make a legitimate purchase in a store, and if I screwed up my docket and threw it away I would have no proof that I paid for the goods and I could be put in a very awkward position. Under this Bill we would be vesting powers in people which should not be vested in them. I know of cases where persons were prosecuted for stealing clothing which was deposited in a box on the Adelaide Railway Station for charitable purposes. Those arrests were not made by railway detectives but by the proper legal authority. People are appointed and their specific job is to detect and stop pilfering of railway property or property placed in charge of the department. I cannot recollect a case in recent years where a person has been prosecuted for pilfering property from the railways.

The Hon. N. L. Jude—That is the point; we cannot catch them.

The Hon. S. C. BEVAN—What are the so-called detectives there for? They are there to protect this property, and apparently they are not doing their job.

The Hon. E. Anthoney—They have not sufficient power.

The Hon. S. C. BEVAN—It is apparently quite a simple matter to catch a person who pilfers from one of the baskets on the Adelaide Railway Station, because there have been prosecutions for that offence, but I cannot recollect prosecutions for years for pilfering of railway property. Mr. Anthoney said that these people have no authority, but I say they have. If they suspect a person they can take him within the precincts of the station to ascertain if their suspicions are correct. That being so, why should they be given this power which is open to abuse? Any law which is open to abuse is bad, and any bad law should not be enacted. I feel that this Bill is giving powers to people far greater than what is warranted on the evidence which we have before us. I hope that members will not agree to this amendment to allow the vesting of these powers.

The Hon. L. H. DENSLEY secured the adjournment of the debate.

LONG SERVICE LEAVE BILL.

In Committee.

(Continued from October 17. Page 1151.)

Clause 3 "Interpretation."

The Hon. C. D. ROWE (Attorney-General)—I move—

In the definition of "industrial agreement" before "Industrial" to insert "office of the", and to delete "Court" and insert "Registrar."

I understand that industrial agreements are filed in the office of the Industrial Registrar. This is purely a drafting amendment.

Amendments passed; clause as amended passed.

Clause 4—"What constitutes continuous service."

The Hon. A. J. MELROSE—I move—

In subclause (1) to delete paragraph (*e*).

It seems that the Committee has been put in a ridiculous position. The clause provides:—

For the purposes of this Act the continuity of a worker's service (whether before or after the commencement of this Act) shall not be deemed to have been broken by . . . interruption of the worker's service arising directly or indirectly from an industrial dispute, but only if the worker returned to work in accordance with the terms of settlement of the dispute.

It would appear that if we include this paragraph we will be giving legal approval to an illegal action. In the Industrial Court strikes are ruled out of order. Under this provision, if a man is on strike, it shall not count against his continuity of service.

The Hon. C. D. ROWE (Attorney-General)—A worker might find himself involved in a dispute through no action of his own, and frequently against his own wishes. The Government feels that it is not fair under those circumstances that his entitlement to long service leave should be affected. We have included additional words which do not appear in some of the Acts of other States which require the worker to return to work in accordance with the terms of settlement of the dispute. If a worker fails to do that, his continuity of service is broken. It is a reasonable clause and I ask that it be retained.

Amendment negatived.

The Hon. Sir FRANK PERRY—I move—

In subclause (2) after "(*b*)" insert "or (*c*)."

Paragraph (*b*) relates to injuries an employee suffers in his own time and paragraph (*c*) to injuries suffered in the course of his employment. If the accident occurs in a man's own time he gets only 15 days and I wish that the same allowance should apply when an employee is injured while on duty. The employee receives workmen's compensation, whereas the employer receives no return for his services during his absence.

The Hon. C. D. ROWE—In the code relating to long service leave approved by the A.C.T.U. the period is limited to 15 days. This code has become available since the Bill was first introduced in this Chamber. I indicated that the Government was happy to consider amendments, and since the amendment proposed is in strict conformity with the code approved by the A.C.T.U. I feel that the Government is justified in accepting it.

The Committee divided on the amendment:—

Ayes (13).—The Hons. E. Anthoney, J. L. S. Bice, J. L. Cowan, L. H. Densley, E. H. Edmonds, N. L. Jude, A. J. Melrose, Sir Frank Perry, W. W. Robinson, C. D. Rowe (teller), Sir Arthur Rymill, C. R. Story and R. R. Wilson.

Noes (4).—The Hons. K. E. J. Bardolph, S. C. Bevan, F. J. Condon (teller) and A. J. Shard.

Majority of 9 for the Ayes.

Amendment thus carried.

The Hon. Sir FRANK PERRY—I move—

In line 7 of subclause (2) delete "(c) or."

The Hon. F. J. CONDON—The Government has accepted the amendment moved by Sir Frank Perry. I do not want to delay these proceedings, and the Opposition cannot do anything because of the Government's action but divide the Committee on every clause. If these amendments are to be accepted, they will be worse than the Bill that was originally introduced. It appears that a certain section of this House has persuaded the Government to depart from its original intention, so I intend to oppose this amendment.

The Committee divided on the amendment.

Ayes (13).—The Hons. E. Anthoney, J. L. S. Bice, J. L. Cowan, L. H. Densley, E. H. Edmonds, N. L. Jude, A. J. Melrose, Sir Frank Perry (teller), W. W. Robinson, C. D. Rowe, Sir Arthur Rymill, C. R. Story and R. R. Wilson.

Noes (4).—The Hons. K. E. J. Bardolph, S. C. Bevan, F. J. Condon (teller), and A. J. Shard.

Majority of 9 for the Ayes.

Amendment thus carried; clause as amended passed.

Clauses 5 and 6 passed.

Clause 7—"Time for taking leave."

The Hon. Sir FRANK PERRY—I move to insert the following new subclauses:—

(1*a*) If at the time when this Act is assented to, or at any time before the first day of July, 1958, negotiations are being conducted with the object of making an industrial award or industrial agreement relating to long service leave for any class or group of workers, any employer employing workers of that class or group may postpone any long service leave which becomes due under this Act to any such worker before the first day of July, 1958. But no such leave shall be postponed to a day later than the thirtieth day of June, 1959, unless the worker consents.

(1*b*) An employer may, from time to time, postpone any long service leave becoming due to a worker if the reasonable needs of the employer's business make such postponement necessary. But no leave shall be postponed under this subsection for more than one year at any one postponement or beyond the end of the fourth year after the year in which it first became due.

Since this Bill was introduced certain developments have taken place that have instituted a review of the matter by everyone associated with the Bill, including the Government. If the Government has acquiesced in the amendments I am introducing, I think it is only complying with reason and exercising its judgment to make satisfactory the position that has arisen because of the developments that have taken place elsewhere. These amendments are necessary to make the legislation satisfactory. The new subclauses provide that the Act shall not come into operation until June, 1959, where there is any discussion or argument with regard to an agreement or industrial award being decided upon, and where that is so, to give those who are operating under another system of long service leave an opportunity to get agreement by a court award. This amendment delays the operation of long service leave until June, 1959, but it does not alter the provisions of the Bill where no other agreement has been entered into. It still operates from June, 1957, but is delayed until other satisfactory agreements between employers and employees have been entered into.

The Hon. C. D. ROWE—Mr. Condon has been good enough to say that the Government is prepared to accept Sir Frank Perry's amendments, but I do not know where he gets his information from, because I have been instructed that the Government does not propose to accept all his amendments. I propose to carry out my instructions. Already an amendment moved by another member has been successfully opposed by the Government, so I think Mr. Condon would be well advised to await events rather than to make prognostications.

Since this Bill was introduced there have been very successful negotiations between employers and employees that have resulted in many employees receiving long service leave provisions that they would otherwise not have received, and I am sure they will be appreciative of the Government's action. The purpose of this clause is to permit the continuance of these negotiations where it is likely that similar agreements will be reached. To my mind, this amendment works equally in favour of the employee as of the employer, and under those circumstances the Government is prepared to accept it.

The Committee divided on the amendment.

Ayes (13).—The Hon. E. Anthoney, J. L. S. Bice, J. L. Cowan, L. H. Densley, E. H. Edmonds, N. L. Jude, A. J. Melrose, Sir Frank Perry (teller), W. W. Robinson, C. D. Rowe, Sir Arthur Rymill, C. R. Story and R. R. Wilson.

Noes (4).—The Hons. K. E. J. Bardolph, S. C. Bevan, F. J. Condon (teller) and A. J. Shard.

Majority of 9 for the Ayes.

New subclauses thus inserted; clause as amended passed.

Clause 8—"Payment in lieu of leave."

The Hon. F. J. CONDON—I understand that this was to be a long service leave Bill. Why should anyone be permitted to take a week's money in lieu of leave? Long service leave is to enable an employee to recuperate from his work. One of the stipulations in awards is that an employee on long service leave cannot work anywhere else. That provision is included in an award which I have been handling for many years. I know of cases where people have gone on long service leave and taken another job, but they have been told that they must cease working. This is not a Long Service Leave Bill but an annual leave Bill. Allowing a man to keep on working and receiving pay in lieu of leave is foreign to me, and I therefore oppose the clause.

The Hon. C. D. ROWE—I ask the Committee to allow this clause to remain as it is. Only one question needs to be asked and that is whether we believe in a police State or not. If we did, we would not give the worker any right to elect to take pay in lieu of leave. Everyone has been given a certain amount of commonsense, and if a person wishes to use that and if it suits him to take payment in lieu I shall not be one to stop him from doing so. I feel very strongly on this matter, and I certainly will not interfere with the rights of a man who wishes to elect what he should do.

The Hon. A. J. SHARD—I oppose the clause. If we are accused of being desirous of a police State I can only say that the Employers' Federation joins us in that desire. There is a clause in the Code which says that leave must be taken and the employee must not be paid. It goes further and says that he must not work for any other employer when he is on leave, and if he commits a breach of that clause he forfeits all his rights under the Code.

The Hon. Sir Arthur Rymill—That is pretty severe, isn't it?

The Hon. A. J. SHARD—And rightly so, too.

The Hon. C. D. Rowe—I do not agree with it.

The Hon. A. J. SHARD—It is in the Code and has been agreed to by employers' associations and unions throughout Australia. If it is to be leave, let us have leave. I am not ashamed to say that in the industry with which I am connected employees who are caught working somewhere else when they are on leave do not come back to our industry. Our little union was the first in this State to have annual leave registered on a State basis. We spent a great deal of money and put in a good deal of work and worry putting doctors in the witness box to say how necessary it was to have annual leave. We established that it was to the employers' benefit to grant employees leave. It was felt to be unfair to the employer if the employee worked for someone else while on annual leave. It is totally wrong, whether it be annual leave or long service leave, to allow employees to take money from one employer and work for another, and it is against the whole principle of leave. Leave means time away from work to rest and recuperate. The Attorney-General says that he has deep feeling on the subject. My feelings are very deep and sincere and bitter against the person who will take advantage of his annual leave to go elsewhere and earn more money. I oppose the clause.

The Hon. S. C. BEVAN—I oppose the clause. The Minister said that if we deleted the clause we would be interfering with the rights of employees and would be approaching a police State. I am sure the Attorney-General does everything possible to uphold law and order, but from his remarks I fear that he is totally out of step with the laws of this State and the Commonwealth. I remind him and all members that annual leave clauses are written into every award and determination operating in the Commonwealth and State that I am aware of, and the court itself has written into those awards the phraseology that annual leave must be taken and cannot be paid for. The Commonwealth Arbitration Court has done that and so has the State Industrial Court, but apparently the Attorney-General does not agree with the actions of our Arbitration Courts and suggests that they have interfered with the rights of the employee.

I submit that long service leave is in the same category as annual leave in this matter. Despite assurances by the Attorney-General I suspect that this clause has been put in specifically for the advantage of the employer. The phraseology is that by agreement with the worker the employer may pay him in lieu of his leave. What happens where there is a disagreement? The employer comes to the employee and tells him he must take the payment in lieu of his leave because his services cannot be spared. The employee may say that he is entitled to leave and wishes to take it. What happens in those circumstances? There is nothing in this Bill to say that there shall be any independent arbitrator or that the worker has any right of appeal, so we must take it for granted that what the employer desires to do will be done, and by being allowed to pay for the leave he

will get all the benefit. He must pay the employee a week's money under any circumstances, and assuming that he has qualified for long service leave under this Act he would also be entitled to a week's leave. If an employer offers a week's pay in lieu of leave it is to his advantage because he gets an additional week's production. He would be giving the employee a week's bonus a year, and he would be getting an additional week's production, so he would save considerably on the bargain.

I submit that this clause, apart from being unjust, is definitely an advantage to the employer, and I suspect that it has been put in there for that very reason. Long service leave should be recreation leave for the employee after long service with an employer, and that being so he should have the leave and not payment in lieu of it.

The Committee divided on clause 8.

Ayes (13).—The Hons. E. Anthoney, J. L. S. Bice, J. L. Cowan, L. H. Densley, E. H. Edmonds, N. L. Jude, A. J. Melrose, Sir Frank Perry (teller), W. W. Robinson, C. D. Rowe, Sir Arthur Rymill, C. R. Story and R. R. Wilson.

Noes (4).—The Hons. K. E. J. Bardolph, S. C. Bevan, F. J. Condon (teller) and A. J. Shard.

Majority of 9 for the Ayes.

Clause thus passed.

Clauses 9 to 12 passed.

New clause 12a "exemptions."

The Hon. Sir FRANK PERRY—I move to insert the following new clause:—

12*a*. (1) An employer who is bound by an industrial award or industrial agreement which provides for long service leave for any workers employed by him shall be exempt from this Act in relation to every worker to whom the award or agreement applies.

(2) Where an industrial award, industrial agreement, or any number or combination of such awards or agreements provide for long service leave for the majority of the workers employed by an employer, that employer (in addition to being exempt from this Act as provided in subsection (1) of this section) shall be exempt from this Act in relation to all the other workers employed by him, provided that he grants to each such other worker long service leave in accordance with such award or agreement, or if there are two or more of such awards or agreements, in accordance with the award or agreement the provisions of which as to long service leave are the most beneficial to such worker.

(3) If any workers are entitled to long service leave, superannuation benefits or any other similar benefits, or a combination of any such benefits under a scheme paid for wholly or partly by the employer, and such scheme is not less favourable to those workers as a whole than the scheme of long service leave prescribed by this Act, the employer shall be exempt from this Act in relation to every worker to whom the scheme applies.

The object is to replace clause 13. Alterations have taken place since the introduction of the Bill necessiating changes relating to exemptions under court awards, either in the Federal or State field. Subclause (1) covers those bound by an industrial award, whether Federal or State and they shall be exempt from the Bill. Subclause (2) provides that an agreement can cover all employees in the one plant. If the majority are covered by an agreement the employer has the right to pay all his employees under that agreement. In the control of works it is often necessary to interchange the men from one section to another, and it is desirable that employees of the same plant should be under the same conditions. Therefore, under this clause, the employer will have the right to pay all his employees under the agreement and to be exempt from the Bill. Subclause (3) provides that in a superannuation scheme or other benefits of a like character where the conditions are equal to the provisions of the Bill the employer can pay under such a scheme instead of coming under the Act.

The Hon. C. D. ROWE—In each case the purpose is to enable the worker to take advantage of what is the most beneficial from his point of view. The Government is justified in accepting the amendment because of the circumstances which have arisen since the Bill was first before the House.

The Hon. Sir ARTHUR RYMILL—When I first saw the Bill I thought its main defect was that the exemptions were insufficient. They were such that they would enable workers in many cases to receive double what they would normally receive from existing funds, and thus it was defective. The amendment sets out to cure that defect, and it now turns out that the provisions are more or less the same as in the Code. As Sir Frank Perry has said, the amendment does not set out to destroy the Bill or remove any of its benefits, but to remove anomalies and make the thing work better, and I think it succeeds in that respect. I believe that the employer who has gone out of his way in advance of legislation and awards to make conditions better for his employees should be properly protected, and that is what the clause sets out to do. The amendment is for the protection of the good employer who has raised the standard of conditions of his

employees voluntarily and gone out of his way to give extra and help them by various benefits.

New clause inserted.

New clause 12b. "Effect of industrial award or agreement in certain cases."

The Hon. Sir FRANK PERRY—I move to insert the following new clause:—

12b. Where a worker has become entitled to long service leave under this Act and before he takes such leave or receives payment in lieu thereof, he becomes subject to an industrial award or industrial agreement providing for long service leave, the employer shall not be required to grant him such leave or payment under this Act unless it was earned by a period of service not taken into account for the purpose of determining the worker's right to leave under the said award or agreement.

This is designed to obviate the possibility of any duplication of payments.

New clause inserted.

New clause 12c. "Application of money paid into funds of employers."

The Hon. Sir FRANK PERRY—I move to insert the following new clause:—

12c. Where an employer—

(*a*) has contributed money to a fund for the purpose of providing retiring allowances, superannuation benefits or other similar benefits for any of his workers; and

(*b*) becomes bound by this Act or by an industrial award or industrial agreement prescribing long service leave for such workers,

he shall notwithstanding the provisions of any instrument be entitled to use any of the money contributed by him into such fund, for the purpose of paying or reimbursing himself for the cost of complying with the obligations imposed by this Act or such awards or agreements.

This will enable an employer to use any funds to which he has contributed for the purpose of providing retiring allowances and so forth to reimburse himself for the cost of complying with his obligations under this legislation.

New clause inserted.

New clause 12d.—"Prevention of double benefits."

The Hon. Sir FRANK PERRY—I move to insert the following new clause:—

12d. (1) In this section the expression "employer's scheme" means a scheme which at the expense of an employer provides long service leave for workers of the employer but is not such as to render the employer exempt from the provisions of this Act.

(2) If before the commencement of this Act a worker has taken long service leave under an employer's scheme or has received a payment in lieu of such leave or at the time of the commencement of this Act is on long service leave under an employer's scheme or has a present vested right to such leave, and the period of service by which such leave or payment or right was earned is more than seven years, then no service before the first day of July, nineteen hundred and fifty-seven, shall be taken into account in determining the rights of the worker under this Act.

(3) Where an employer who has established an employer's scheme grants long service leave to a worker under this Act, the employer may make such adjustments of the rights of the worker under the scheme as are reasonably required for the purpose of setting off the leave so granted under this Act against leave due or becoming due to the worker under the scheme.

This is designed to cover rather extraordinary conditions arising from agreements entered into between employees and employers but which are not registered in the court. The clause will ensure that there are no double payments.

New clause inserted.

Clause 13.—"Exemptions."

The Hon. Sir FRANK PERRY—The new clauses render this clause unnecessary and I oppose it.

Clause negatived.

Clauses 14 to 21 inclusive passed.

Clause 22—"Provision for leave for casual workers."

The Hon. Sir FRANK PERRY—This clause contains several objectionable features. It relates to casual workers and obviously long service leave could not be applied to such employees without the institution of a complicated system. Such leave is not provided in any existing long service leave provisions, nor do I think it should be provided here. The clause further attempts to fix a rate for casual labour—also unheard of elsewhere. I oppose the clause and ask the House to do likewise.

The Hon. C. D. ROWE—The Government is prepared to accept amendments that clear matters which have arisen since the Bill was first introduced or because it believes they improve the employee's position with regard to long service leave. However, the Government does not consider that this clause should be deleted. It does not touch on any of the matters related to the previous amendments moved by Sir Frank Perry. It attempts to provide that people engaged in one particular type of employment, but who because of it are engaged by different employers, should not be deprived of the benefit of long service leave.

The Hon. Sir Arthur Rymill—How do you explain the fact that it should be in this Bill when it is not included in other States' legislation?

The Hon. C. D. ROWE—The Government has never felt obliged to consider what exists

in other States' legislation in dealing with its own legislation. Because fees under the Factories Act in Victoria are twice as high there is no logical reason for our adopting similar fees. The Government does not believe that a worker because of the nature of his occupation should be denied the privileges of long service leave. The Government's policy is and has always been to ensure that everybody in the community receives his just and proper rights and that as far as possible everybody is treated on the same basis. This provision is included to ensure that as far as possible employees in this State should all receive the benefits of long service leave. As a consequence of the introduction of this Bill many employees now receive substantial long service leave benefits they would not have received otherwise. One important aspect that has impressed me about the negotiations between employers and employees is the ease with which they have been able to agree on generous long service leave schemes. The Bill provides that the leave may accumulate over as many years as the parties agree. Since we have so much evidence that they can agree so easily, obviously many employees will allow their leave to accumulate to enable them to receive a benefit greater than that which they would receive under the A.C.T.U. scheme and it is beyond my comprehension to understand why people who purport to represent employees can oppose this Bill.

The Hon. Sir ARTHUR RYMILL—Long service leave for casual workers is provided by this clause, but the two terms are completely antithetical: how can a casual worker be entitled to long service leave? On the face of it, the whole conception is ridiculous. Labor members have explained some vestige of a reason why this should happen in one isolated case, namely, that of waterside workers who work for various employers in the same industry; but those workers already receive special benefits for that reason and to also give them this benefit would be wrong. A casual worker means an occasional employee for various employers and he should not be entitled to long service leave.

Further, if the Committee recognizes this principle, it will be the thin edge of the wedge for long service leave in an industry as opposed to long service leave for an employee who has served his period with the one employer. That principle cannot possibly be justified because long service leave is a reward for loyalty and continuity of service with the one employer, whereas it should not be given to a man who flits between a number of employers during his qualifying period of service. I oppose the clause.

Clause negatived.

Clause 23 and title passed.

Bill reported with amendments and Committee's report adopted.

ADJOURNMENT.

At 10 p.m. the Council adjourned until Thursday, October 24, at 2.15 p.m.